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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----x
4 UNITED STATES OF AMERICA
5 v.
6 RAYMOND CHRISTIAN a/k/a
7 "Reckless"
8 GLENN THOMAS, a/k/a "Gucci"
9 TYRELL WHITAKER, a/k/a "Bow Wow"
10 Defendants
11 -----x

12 CR 626 (ER)

13 New York, N.Y.
14 August 18, 2014
15 9:30 a.m.

16 Before:

17 HON. EDGARDO RAMOS
18 District Judge

19 APPEARANCES

20 PREET BHARARA
21 United States Attorney for the
22 Southern District of New York
23 ANDREW BAUER
24 KAN M. NAWADAY
25 Assistant United States Attorney

DAVID S. GREENFIELD
and
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Attorney for Defendant Thomas
LEVI DOWNING

GEORGE ROBERT GOLTZER
and
YING STAFFORD
Attorneys for Defendant Whitaker
-- also present--
S.A. Andrei Petrov - FBI

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1 (Trial resumed)

2 (In open court; jury not present)

3 THE COURT: The jury, or at least several members, a
4 couple of members of the jury have asked for an update on when
5 we think this thing will end.

6 Do we have an estimate?

7 MR. BAUER: We were just talking to defense counsel
8 this morning. Again, this all depends on their
9 cross-examination of Danielle Williams. Our direct examination
10 of Ms. Williams will be around an hour. If they only do a
11 couple of hours, then there is a very good chance that we would
12 rest if not the end of the day tomorrow, Wednesday morning.

13 THE COURT: OK.

14 MR. BAUER: We are calling McDermott. The one caveat,
15 there is David Evans, another one of our cooperators, we are
16 going to see how Ms. Williams does on the stand. If she does as
17 we expect, we expect we will not be calling him, which will
18 save us time.

19 THE COURT: By way of defense case, is there anything
20 that you can share with us.

21 MR. GOLTZER: It depends on whether or not we can
22 reach a stipulation on certain items. We will try to get that.

23 MR. BAUER: We are assuming that we are going to reach
24 that agreement.

25 MR. DRATEL: I think we have two that we are working

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1 on right now.

2 MR. GREENFIELD: They may have two with us. I haven't
3 had a chance to discuss it yet.

4 THE COURT: OK. If that is the case, then, and if
5 things go as the parties anticipate, we should have the
6 charging conference tomorrow. I take it the parties received
7 the draft. We will do that at the end of the day at 5 o'clock
8 tomorrow evening.

9 The only other issue, and I will ask the parties how
10 you wish to proceed, we do have one juror who has been
11 consistently the individual who that has kept us from starting
12 on time. I guess two days ago, two trial days ago, he was 20
13 minutes late. Then the following day he was approximately
14 something under 10 minutes. It hasn't been a huge problem so
15 far, and I would not want to, unless it is necessary, sort of
16 single him out and bring him out and put him in the jury box
17 and tell him to straighten up, but do the parties have any view
18 on this one way or another?

19 MR. GREENFIELD: I agree with your Honor.

20 MR. BAUER: As do we, your Honor.

21 MR. DRATEL: I agree with your Honor. The only caveat
22 is should we have a very a tight schedule about getting the
23 summations in on the same day or something like that, it would
24 be worth a little admonition beforehand, not to him, specific
25 but to everyone, if they want to get this case the confines of

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1 what we expect, they need to do their part.

2 THE COURT: Yes. Absolutely.

3 OK. We will see where we are then.

4 JAMAR MALLORY, resumed.

5 (Continued on next page)

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1 (Jury present)

2 THE COURT: Good morning, ladies and gentlemen. Good
3 to see again. I trust you all had a pleasant weekend. We
4 continue with the cross-examination of Mr. Mallory.
5 Mr. Mallory, you are reminded that you are still under oath and
6 that you should please keep your voice up.

7 Mr. Dratel.

8 MR. DRATEL: Thank you, your Honor.

9 RECROSS EXAMINATION

10 BY MR. DRATEL:

11 Q. Good morning, Mr. Mallory.

12 A. Good morning.

13 Q. Do you remember last week when you were questioned
14 Mr. Bauer on redirect examination -- do you know what I mean?
15 When he came back on Thursday and asked you additional
16 questions after the cross examination. You talked about some
17 of the handwritten notes and typewritten memoranda that I had
18 shown you to try to refresh your recollection.

19 Do you remember that Mr. Bauer asked you about whether
20 or not you had seen those before and whether you had adopted
21 any of that as accurate. Do you remember?

22 A. Yes, sir.

23 Q. When you met the 15 or more times with FBI agents and
24 prosecutors, assistant United States attorneys, Newburgh
25 police, any other law enforcement people they were taking

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1 notes, right?

2 A. Yes, sir.

3 Q. If they didn't hear an answer of yours, they would ask you
4 to repeat it, right?

5 A. I don't remember.

6 Q. And if they didn't understand a particular answer of yours,
7 they would ask a follow-up question, right, or they would ask
8 you to explain something, right?

9 A. Yes, sir.

10 Q. They asked you for details, right?

11 A. Sometimes. I don't remember all the time.

12 Q. Do you think when they were writing their notes -- by the
13 way, some of this stuff occurred in 2012, right? The first
14 half of 2012 a lot of these meetings occurred, right?

15 A. Some of them did, yes.

16 Q. Two years ago. Some of them occurred this year, earlier
17 this year, correct?

18 A. Yes.

19 Q. From two years ago if someone was going to consult their
20 notes, they are going to want them to be accurate, right?

21 MR. BAUER: Objection, your Honor.

22 A. I don't understand that question.

23 THE COURT: Overruled.

24 A. Repeat it.

25 THE COURT: Rephrase, Mr. Dratel.

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Mallory - recross

1 MR. DRATEL: Sure.

2 Q. If someone was going to take notes of your conversations of
3 what you were telling them two years ago to use it in a trial
4 this week, they would want them to be accurate, right?

5 MR. BAUER: Objection.

6 THE COURT: Sustained.

7 Q. Do you think that they took the notes to be accurate or
8 inaccurate?

9 MR. BAUER: Objection.

10 THE COURT: Sustained.

11 THE WITNESS: Answer?

12 THE COURT: Don't answer.

13 Q. You talked about the material that you did not write on,
14 but in fact there was also material that you did write on,
15 correct?

16 A. Yes, sir.

17 Q. I think --

18 MR. DRATEL: One moment, your Honor.

19 I don't think we took back the original exhibit, your
20 Honor, on Thursday, so I'm going to use the same document, but
21 it is just not marked as the same exhibit. It's defendant
22 Thomas' Exhibit M.

23 Q. I ask you to look at that Mr. Mallory. Do you see that?
24 That is a photo of Mr. Thomas, correct?

25 A. Yes, sir.

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Mallory - recross

1 Q. That's your handwriting, correct?

2 A. Yes, sir.

3 Q. This was January 25, 2012. Do you see the date?

4 A. Yes.

5 Q. And those are your initials, J.M., right?

6 A. Yes.

7 Q. And you wrote, "If he's blood, he can be under L-1."

8 Right?

9 A. Yes.

10 Q. So that's nobody else writing. That's you writing "if he's
11 blood," correct?

12 A. Yes.

13 Q. In fact, Mr. Thomas was someone who was cool with Bloods,
14 but took the Crips very seriously, right?

15 A. At one time, yes.

16 Q. Also in your redirect you were asked about whether you had
17 changed your story after you signed your cooperation agreement,
18 right? Do you remember that on Thursday by Mr. Bauer?

19 A. Yes.

20 Q. Before you signed your cooperation agreement, while you
21 were cooperating, you didn't think it was OK to continue to
22 commit robberies, right? You didn't think that was OK while
23 you were cooperating during the first half of 2012?

24 A. You're asking me? That's a question?

25 Q. Yes, that's a question. If you don't understand it, I'll

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Mallory - recross

1 be happy to rephrase it?

2 A. Yes, rephrase it.

3 Q. During the first half of 2012, you are cooperating, right?

4 A. Yes.

5 Q. During the first half of 2012, before you went into jail in
6 September and before you pled guilty on August 14, 2012, you
7 had committed two robberies and planned a burglary, correct?

8 A. Yes.

9 Q. That was while you were cooperating, right? Before your
10 agreement was signed, but while you were cooperating, right?

11 A. Yes.

12 Q. You didn't think that was OK as part of your cooperation,
13 right?

14 A. No.

15 Q. You knew it was in your best interest not to do that if you
16 wanted to get a cooperation agreement in the first place,
17 right?

18 A. Yes.

19 Q. You also knew that by failing to disclose it at the time
20 that you pleaded guilty and signed your cooperation agreement,
21 because you hadn't told them about -- withdrawn. I'll break it
22 down.

23 When you pled guilty on August 14, you hadn't told
24 them yet about those two robberies and the planned burglary,
25 right?

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1 A. No.

2 Q. So you knew that by not disclosing that you were putting
3 your cooperation agreement in jeopardy?

4 A. Yes.

5 Q. You still didn't tell them until you were confronted with
6 it by them, meaning the government, the prosecutors and agents,
7 in November of 2012, right?

8 A. Yes.

9 Q. That was November 2012, when you were confronted, and you
10 acknowledged the two robberies and the burglary. Isn't it a
11 fact that it wasn't until March of 2014 that you first told the
12 government that Mr. Thomas, you alleged that Mr. Thomas came
13 back to your apartment, your apartment sometime after the
14 murder, right?

15 MR. BAUER: Objection, your Honor.

16 Q. The next day or a couple of days?

17 MR. BAUER: Outside the scope of the redirect.

18 THE COURT: Overruled.

19 Q. Right?

20 A. Yes.

21 Q. And that is 40 months after the actual incident occurred,
22 right? This is March of 2014 for an event that occurred in
23 December of 2010, right?

24 A. I don't know the -- I don't know the dates.

25 Q. By the way, that first session in 2014, in March of 2014,

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1 you had nothing about Mr. Thomas having the .38 with him, the
2 black .38, right?

3 A. Repeat that question. I don't understand what you just
4 said.

5 Q. Sure. That first session you had in 2014, March of 2014,
6 with the government to prepare for this case, there was nothing
7 in there about Mr. Thomas coming over after the day after or
8 the night after the Henry killing with a .38, nothing about the
9 gun, the black .38 that he had with him, you didn't do that
10 until the next session, right?

11 A. I don't remember which session it was, but I told them. I
12 don't remember what the session was.

13 Q. Let me see if I can refresh your recollection. I want you
14 to look at 3502-40 and look at what I've highlighted on those
15 first two pages. Just look at that.

16 THE COURT: He's done, Mr. Dratel.

17 MR. DRATEL: OK. Thank you.

18 Q. There's nothing in there about him bringing back the .38,
19 right? You didn't tell the government, prosecutors and agents,
20 in that session in March of 2014, March 11, you did not tell
21 the government that Mr. Thomas brought back the .38 when he
22 came to see you with the beers the day or two after the Henry
23 killing, right?

24 A. I told them. I don't remember when I told them, but I told
25 them.

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Mallory - recross

1 Q. Now, I'm going to show you what's marked as 42 -- never
2 mind. Never mind.

3 Also, by the way, it wasn't until the second session
4 in May of this year that you told the government that
5 Mr. Thomas had told you during that meeting that you claim
6 happened, that he said that he had run up Lander Street to run
7 home after the killing, right? I should break that down.

8 You mentioned that, right? You testified that he told
9 you during that meeting that he ran up Lander Street to run
10 home, right?

11 A. I don't remember what street he ran up, but I did tell them
12 that he turned aways from the group and ran home. I don't
13 remember, I don't remember saying Lander Street.

14 Q. But the first time you told the government that was May 2,
15 2014, correct?

16 A. I don't remember the date, but I told them.

17 Q. Let me show you what's been marked as 3502-42 and ask you
18 to look at that bit that's highlighted right there and let me
19 know when you've finished.

20 A. I finished.

21 Q. Isn't it a fact that you told the government that he ran up
22 Lander Street, right?

23 A. I told them that he ran off.

24 Q. Did you tell --

25 A. Can I finish talking?

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Mallory - recross

1 Q. Did you them that he ran up Lander Street?

2 A. I don't remember telling them that.

3 Q. You didn't tell them that. They were taking notes, right?

4 Did they make up Lander street?

5 A. They could have made a mistake. I don't remember telling
6 them Lander Street.

7 Q. But that was the first time you told them about that, that
8 Mr. Thomas had told you that, right? That was the first time,
9 in May of this year, that you had that as part of your story?

10 A. That's a question?

11 Q. Yes.

12 A. Repeat it. I don't --

13 Q. Sure. You claim that Mr. Thomas told you he cut off on one
14 street, he turned off on one street and ran towards home. I'm
15 asking you, the first time that you put that in your story to
16 the government was May 2, 2014?

17 A. I don't remember.

18 Q. Now, as late as June, we'll talk about -- we are still
19 talking about changing your story. As late as June of this
20 year, June 26, 2014, you insisted to the government that you
21 didn't even receive a call from L-1, that it was a text, right?

22 A. Repeat that again.

23 Q. Sure. As late as, it was in June of this year June 26,
24 2014, that you insisted to the government that you had not
25 received a phone call from L-1 the night of December 14, 2010,

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Mallory - recross

1 but in fact it was a text, correct?

2 A. No.

3 Q. You didn't tell the government that?

4 A. I told them that first I got a text and I told them that I
5 got a phone call.

6 Q. Did you say that you couldn't get a phone call on your
7 phone?

8 A. No, I could get phone calls on that phone.

9 Q. Didn't you tell them that you couldn't get a phone call on
10 your phone?

11 A. I got the phones mixed up.

12 Q. I'm asking you a question for a yes or no. Did you tell
13 them that you couldn't get phone calls on your phone, June 26,
14 2014, less than two months ago?

15 A. I don't remember.

16 Q. You don't remember. Let me show you what is marked as
17 government's Exhibit 3502-44, and ask you to look at this
18 section. Did you not tell the government June 26, 2014, less
19 than two months ago, four years after the event almost, that
20 you did not receive a call, it was a text?

21 A. I don't remember.

22 Q. Did you not tell them that your phone could not get calls?

23 A. I told them I had a phone --

24 Q. I'm asking you, did you tell them your phone could not
25 receive calls?

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Mallory - recross

1 A. That day I don't remember. I don't think I did.

2 Q. Did you also insist that what you had said initially that
3 they had misunderstood because you said not that I received a
4 phone call but that L-1 hit my phone? Didn't you say that?

5 A. I said that he hit my phone, yeah.

6 Q. So were you trying to make an excuse as to why it wasn't a
7 phone call and why it was a text and not a phone call, and this
8 is less than two months ago, right?

9 A. No.

10 Q. When you make stuff up, it can only be disproved by actual
11 records, right, like phone records and things like that, right,
12 things that they we can't verify because you are just talking
13 about them? We can't prove that you're lying, right?

14 MR. BAUER: Objection, your Honor.

15 THE COURT: Sustained.

16 Q. Now, in terms of your story, you still don't know whether
17 or not, or when exactly the incident that you claim occurred
18 where Bow Wow returns and Gotti shots the gun out the window,
19 Mr. Burden, Kev Gotti shoots the gun out the window, you still
20 don't know whether that happened before or after the Henry
21 killing, right?

22 A. Yes.

23 Q. On redirect you were asked about smoking and drinking and
24 memory, right?

25 A. Yes.

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Mallory - recross

1 Q. Now, December 14, 2010, when you started sometime in the
2 afternoon smoking and drinks with Kev Gotti, with Mr. Burden,
3 that was a pretty typical day for the two of you?

4 A. What does that mean, typical?

5 Q. That means that a few times a week you guys would get
6 together and that would be your routine, smoking, drinking
7 hanging out?

8 A. No.

9 Q. No? You didn't do that often with him?

10 A. I did it often, but it wasn't a few times every week,
11 probably like a few times every other week.

12 Q. With other people you did it as well, right?

13 A. No.

14 Q. You only did it with Kev Gotti?

15 A. A few times a week, yes.

16 Q. But you did it with other people, too, you? Only smoked
17 with Kev Gotti? That was the only person you smoked marijuana
18 with?

19 A. At that time, yes.

20 Q. Did you smoke marijuana by yourself, too?

21 A. Not a lot.

22 Q. You were doing it on a daily basis you said, right?

23 A. Yes.

24 Q. And you were doing PCP a lot, too, right? Yes?

25 A. No.

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Mallory - recross

1 Q. I'm sorry?

2 A. No.

3 Q. You weren't doing PCP a lot?

4 A. No.

5 Q. You were doing cocaine, too, during this whole period,
6 right?

7 A. At that time I wasn't doing cocaine.

8 Q. I'm sorry?

9 A. At that time, in 2010, I wasn't using cocaine.

10 Q. But during the period of time that we are talking about,
11 between then and now you've done cocaine, PCP, marijuana,
12 right?

13 A. Yes.

14 Q. Drinking a lot, too, during that period, too, right?

15 A. What's a lot?

16 Q. What do you think is a lot?

17 A. I'm asking you what is a lot. What do you consider a lot?
18 You're saying I did it a lot. What's a lot?

19 Q. Every day, every other day from 3 o'clock in the afternoon
20 until you fell asleep at night?

21 A. No.

22 Q. You claim that doing all of these drugs, including alcohol,
23 had no impact on how you perceived events as they happened, had
24 no impact on it? No matter how high you were, no matter what
25 drug you were doing, no matter how drunk you were, it had no

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Mallory - recross

1 impact on how you perceived an event occurring, that's what you
2 are saying?

3 A. I never said that.

4 Q. So it did have an impact, right?

5 A. It can have an effect on me.

6 Q. It can, yeah. It can have an impact on how you remember it
7 a day later, a week later, five years later, right?

8 A. Yes.

9 Q. In fact, you don't even know from that period of time,
10 because of your drug use, because of your alcohol use, you
11 really don't know one day from another, right?

12 A. No.

13 MR. DRATEL: Nothing further, your Honor. Thank you.

14 THE COURT: Anything further?

15 MR. GOLTZER: Yes.

16 THE COURT: Mr. Goltzer.

17 CROSS EXAMINATION

18 BY MR. GOLTZER:

19 Q. Good morning. On Thursday, in response to some questions
20 by the government, you said that you only said that some
21 picture looked like somebody, right?

22 A. Yes, sir.

23 Q. You were denying that you had ever identified somebody by
24 looking at a video, is that correct?

25 A. I don't understand what you mean.

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Mallory - cross

1 Q. I showed you a picture where you wrote the name Bow Wow.
2 Do you remember that?

3 A. I remember that, yes.

4 Q. And it didn't say where you wrote, "It looks like Bow Wow,"
5 it said, "Bow Wow," right?

6 A. Yes.

7 Q. That was at 25 minutes and 6 seconds into the pole camera
8 video, OK? That's what it said on the exhibit, all right?

9 A. Yeah.

10 Q. So you know the difference between saying it is somebody
11 and it looks like somebody, right?

12 A. Yes.

13 Q. When you looked in the book and looked at the pictures of
14 Bash or Gucci or L-1, you said to the government, "That's
15 Bash," right?

16 A. Yes, sir.

17 Q. You were identifying Bash, is that correct?

18 A. Yes, sir.

19 Q. And the reason you said you said it looked like Bow Wow and
20 you couldn't identify Bow Wow is you didn't see his face,
21 right?

22 A. No.

23 Q. You didn't see his face?

24 A. No, I didn't see his face.

25 Q. Do you recall being interviewed on January 27, 2012, by a

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Mallory - cross

1 detective named Bunt?

2 A. Can you repeat that again.

3 Q. Do you remember a detective named Bunt?

4 A. Yes, sir.

5 Q. He was the detective who showed you the video on the pole
6 camera, is that correct?

7 A. I'm not sure which one. It was one of the detectives.

8 Q. It was not long after you got arrested in January of 2012
9 you were shown the video, is that right?

10 A. Yes, sir.

11 Q. And didn't you tell Detective Bunt, That's Bow Wow because
12 I can see his face, with light skin, he turned his face to the
13 camera? Do you remember saying that?

14 A. I don't remember.

15 MR. GOLTZER: May I approach the witness?

16 THE COURT: You may.

17 Q. Referring to 3502-6. Please take a look at this document
18 and I'm pointing to some yellow underlining. Please read that
19 to yourself and let me know when you're finished.

20 Have you read that to yourself?

21 A. Yes, sir.

22 Q. Does it now refresh your recollection that on that date of
23 that interview, you told the detective, I see his face?

24 A. I don't remember that.

25 Q. Do you deny it?

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Mallory - cross

1 A. I'm not denying it. I just don't remember that.

2 Q. Do you deny saying to the detective when you wrote the word
3 Bow Wow, "That's Bow Wow" as an identification?

4 A. I remember saying that.

5 Q. You said it was Bow Wow?

6 A. That it looks like him, yes.

7 Q. No, no, did you say "it is" or "it looks like"?

8 A. It looks like him.

9 Q. Can you think of any reason why a detective would say
10 "identifies"?

11 A. I don't know.

12 Q. Do you think he got it wrong?

13 MR. BAUER: Objection, your Honor.

14 THE COURT: Sustained.

15 MR. GOLTZER: May I have the document back.

16 Q. Is it your testimony today that the reason you only said
17 "looked liked" is that if you said "that's him" it would have
18 been a lie?

19 A. No, that's not true.

20 Q. Would you have been lying if you said, "I recognize him" as
21 opposed to "look like him"?

22 A. I don't understand that question.

23 Q. Would it have been a false identification if you said,
24 "That's definitely Bow Wow?"

25 A. It could have been, yes.

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Mallory - cross

1 Q. Would it have been a lie if you said, "That's definitely
2 Bow Wow"?

3 A. Yes.

4 Q. Would it have been a lie if you said, "I'm identifying Bow
5 Wow"?

6 A. No.

7 MR. GOLTZER: Nothing further.

8 MR. STRAZZA: I have no questions.

9 THE COURT: Very well.

10 MR. BAUER: One very quick re-redirect, your Honor.

11 REDIRECT EXAMINATION

12 BY MR. BAUER:

13 Q. Mr. Mallory, Mr. Dratel was asking you about the time that
14 you had said that you told the government that it was a text
15 message, not a call that you received from L-1?

16 A. Yes, sir.

17 MR. GREENFIELD: Your Honor, I didn't say a word. You
18 said Mr. Greenfield.

19 THE COURT: He said Mr. Dratel.

20 MR. GREENFIELD: Sorry. Mistaken identity.

21 THE COURT: The objection is overruled.

22 Q. That was in June of this past year. Do you remember that?

23 A. Repeat that again, sir.

24 Q. That was in June of this year that you said it was a text,
25 not a call?

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Mallory - redirect

1 A. Yes.

2 Q. Prior to June 2014 you said it was a call, though, right?

3 A. Yes.

4 Q. You were trying to explain what happened when Mr. Dratel
5 cut you off, so I want to let you explain what you meant when
6 you said you got the phones confused? Or, I'm sorry your words
7 were you got the phone mixed up. What do you mean?

8 A. There were two phones that were available to me from
9 Geneva, L-1's girl. There's the BlackBerry, the T Mobile phone
10 that I could only text on that, that I usually had, because I
11 would go on the Internet. There was a black Verizon phone that
12 I used, the flip. I could receive phone calls and text
13 messages on it.

14 Q. When you said --

15 MR. BAUER: You know what, I'm done. No further
16 re-redirect.

17 THE COURT: Anything further?

18 MR. DRATEL: Nothing, your Honor. No. Thank you.

19 THE COURT: Mr. Mallory, you may step down.

20 (Witness excused)

21 THE COURT: Would the government please call its next
22 witness.

23 MR. DRATEL: Your Honor, may I retrieve some stuff?

24 THE COURT: Certainly.

25 MR. DRATEL: Thank you.

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Mallory - redirect

1 MR. NAWADAY: The government calls Tarrence Smith.

2 TARRENCE SMITH,

3 called as a witness by the Government,

4 having been duly sworn, testified as follows:

5 THE COURT: Mr. Smith, please be seated. Bring your
6 seat forward. I want you to speak directly into the
7 microphone. I want you to keep your voice up when you answer
8 the questions and please begin by stating your full name and
9 spelling your first and last name for the record.

10 THE WITNESS: Tarrence Smith, T-a-r-r-e-n-c-e
11 S-m-i-t-h.

12 THE COURT: Thank you. Mr. Nawaday.

13 DIRECT EXAMINATION

14 BY MR. NAWADAY:

15 Q. What state do you live in?

16 A. Pennsylvania.

17 THE COURT: Do you want to bring the microphone closer
18 to you. You can move the microphone.

19 Q. Say that again. What state do you currently live in?

20 A. Pennsylvania.

21 Q. What do you currently do for a living?

22 A. Flip pancakes.

23 Q. You are a cook?

24 A. Yes.

25 Q. About how long have you been living in Pennsylvania?

E8inchr1

T. Smith - direct

1 A. Since May of this year.

2 Q. Before then, what town and state did you live in?

3 A. Newburgh, New York.

4 Q. About how long had you lived at that point in Newburgh
5 before moving to Pennsylvania?

6 A. All my life, 38 years, 39 years.

7 THE COURT: I'm sorry. What was that last part?

8 THE WITNESS: 38, 39 years, all my life.

9 THE COURT: Please keep your voice up, OK?

10 Q. Were you subpoenaed to testify today?

11 A. Yes.

12 Q. Have you previously indicated that if asked certain
13 questions on the stand today you would assert your Fifth
14 Amendment rights against self-incrimination?

15 A. Yes.

16 Q. Do you understand that if the government asked the judge to
17 give you immunity you would have to answer questions about your
18 conduct and you have to answer those questions truthfully?

19 A. Yes.

20 Q. Are you currently testifying under a court-ordered grant of
21 immunity?

22 A. Yes.

23 Q. What do you understand that order protects you from?

24 A. Whatever I say won't be used against me.

25 Q. Does that order protect you from being prosecuted for lying

E8inchr1

T. Smith - direct

1 today?

2 A. No.

3 Q. Back in 2010, where were you living?

4 A. 54 Chambers Street.

5 Q. In Newburgh, New York?

6 A. Yes.

7 Q. Back then what were you doing for money?

8 A. Selling drugs.

9 Q. What drugs were you selling in 2010?

10 A. Crack cocaine.

11 Q. Where were you selling those drugs?

12 A. At 54 Chambers Street.

13 Q. About how much crack per week were you selling from 54
14 Chambers Street?

15 A. At least about three ounces.

16 Q. Were you the only one selling drugs out of 54 Chambers
17 Street in 2010?

18 A. No.

19 Q. Who else was selling out of that address back then?

20 A. Akinto Boone, Tyrell Cobbs, and Mike Boone.

21 THE COURT: Mr. Smith, when you said three ounces, was
22 that three ounces a month? Three ounces a week? Three ounces
23 a day?

24 THE WITNESS: Three ounces a week.

25 Q. Can you describe the building at 54 Chambers?

E8inchr1

T. Smith - direct

1 A. It is a rooming house.

2 Q. How many floors is it about?

3 A. Three.

4 Q. What floor did you live on?

5 A. The first.

6 Q. And was it an apartment?

7 A. It was a room.

8 Q. How many rooms on the first floor?

9 A. Three.

10 Q. Are you talking bedrooms or all the rooms?

11 A. Three bedrooms.

12 Q. In 2010, were you living there alone or with others?

13 A. With one other guy.

14 Q. Who was the other person who was living there at that time?

15 A. This guy named Matos.

16 Q. What was his name again?

17 A. Matos.

18 Q. Can you spell that?

19 A. M-a-t-o-s.

20 Q. Let me show you what's already in evidence as Government
21 Exhibit 44A. It should come up on your screen, Mr. Smith. Do
22 you recognize that?

23 A. Yes.

24 Q. Is that a diagram of the first floor of 54 Chambers?

25 A. Yes.

E8inchr1

T. Smith - direct

1 Q. Can you just point out which room was your room in December
2 of 2010? Which room was your room on that diagram? Can you
3 describe it in words, which room you are looking at?

4 A. The back room next to the kitchen.

5 Q. And you mentioned another person lived there at the time
6 named Matos?

7 A. Yes.

8 Q. And which room was his room?

9 A. The middle room.

10 Q. The one where there's a bed inside of it?

11 A. Yes. Next to the dining room, living room -- yeah, next to
12 the dining room.

13 Q. You said there was a third bedroom. Where is the third
14 bedroom?

15 A. The front room.

16 Q. Where is that on the diagram? Can you use words to
17 describe what you are looking at.

18 A. Front, next to the door.

19 Q. To the left of the door?

20 A. Yes.

21 Q. The front door?

22 A. Yes.

23 Q. Did anyone live in that room in December 2010?

24 A. No.

25 Q. I'm going to show you what's already in evidence Government

E8inchr1

T. Smith - direct

1 Exhibit 95A.

2 Is that 54 Chambers Street?

3 A. Yes.

4 MR. NAWADAY: Then, Ms. McInerney, if you can please
5 pull up Government Exhibit 95B.

6 Q. Mr. Smith, what are we looking at here?

7 A. The front entrance.

8 Q. And the door that swung open, which door is that?

9 A. That's the front door.

10 Q. This little foyer area, about how big was that area?

11 A. Seven to eight feet.

12 Q. Is that seven by eight feet?

13 A. Seven to eight feet long.

14 Q. And about how wide?

15 A. About four feet wide.

16 MR. NAWADAY: Ms. McInerney, if you can please pull up
17 Government Exhibit 95C.

18 Q. What are we looking at here, Mr. Smith?

19 A. Narrow hallway.

20 Q. There is a door here. Is that the front or another door?

21 A. That's the second door.

22 Q. What's directly behind you if you're facing the way that
23 the photographer is facing in this photo?

24 A. The front door.

25 Q. Am I right that you would be standing in the foyer area?

E8inchr1

T. Smith - direct

1 A. In the foyer, yes.

2 MR. NAWADAY: Ms. McInerney, if we can please put up
3 Government Exhibit 95G.

4 Q. What are we looking at here?

5 A. That's the kitchen area.

6 Q. There's a door to the left. Do you know where that door
7 leads?

8 A. That's my room.

9 Q. What is straight back?

10 A. The bathroom.

11 MR. NAWADAY: Ms. McInerney, if you can please pull up
12 95K.

13 Q. Which way are we looking in this photograph?

14 A. Towards the front door.

15 Q. Which way is your bedroom?

16 A. To the right.

17 MR. NAWADAY: Then, Ms. McInerney, if we can scroll
18 through Government Exhibits 95L and M.

19 Q. Do you recognize those, Mr. Smith?

20 A. Yes. That's my room.

21 Q. That was your bedroom?

22 A. Yes.

23 Q. Do you know who Jeffrey Henry is?

24 A. Yes.

25 Q. How do you know him?

E8inchrl

T. Smith - direct

1 A. I have been knowing Jeffrey for 20 years.

2 THE COURT: What was the first part of that?

3 THE WITNESS: I've known Jeffrey Henry for 20 years.

4 Q. I am going to show you what's already in evidence as
5 Government Exhibits 215 and 221.

6 Do you know who that is?

7 A. Me.

8 Q. And 221?

9 A. Jeffrey Henry.

10 Q. Did you know Mr. Henry by any other names?

11 A. Joker.

12 Q. Do you know how Mr. Henry made money in 2010?

13 A. Selling drugs.

14 Q. What drugs did he sell?

15 A. Crack cocaine.

16 Q. Did he ever come visit 54 Chambers in 2010?

17 A. Yes.

18 Q. And about how often in 2010?

19 A. Three times a week.

20 Q. What did he do when he came to visit, typically?

21 A. Hang out, sell some drugs.

22 Q. Do you know if he worked with anyone who was living at 54
23 Chambers?

24 A. Matos.

25 Q. The other man who lived there?

E8inchr1

T. Smith - direct

1 A. Yes.

2 Q. I want to direct your attention to December 15, 2010.

3 Did there come a time that day when you were the
4 victim of a robbery?

5 A. Yes.

6 Q. Please tell the jurors what happened.

7 A. As I exited my room, I walked into a guy pointing a gun at
8 my face.

9 Q. What happened when this person pointed a gun at your face?

10 A. He told me to go back into my room.

11 Q. Who else was in the apartment at that point?

12 A. Nardy Brown, Damon, Jerome, Tyrell, Mike Boone, that's it.

13 Q. Was Akinto there?

14 A. Yes, Akinto.

15 Q. These are people who were not robbers, right?

16 A. No.

17 Q. How many robbers were there?

18 A. Five.

19 Q. Do you remember how they were dressed?

20 A. All black.

21 Q. What kinds of clothes?

22 A. Hoodies, pants.

23 Q. Did they have anything on their faces?

24 A. Masks.

25 Q. Do you remember what the robbers said, if anything, when

E8inchr1

T. Smith - direct

1 you first saw them?

2 A. Told me to get back in the room and get on the floor.

3 Q. Do you know what they were looking for?

4 A. Drugs, money, jewelry.

5 Q. After they said to get on the floor, did they say anything
6 else?

7 A. Yes, give me everything you got.

8 Q. What did you do after you were told to get on the floor?

9 A. I handed them my wallet.

10 Q. What happened next?

11 A. They took Akinto Boone into the bathroom and then I heard
12 somebody call police from the door area and they started
13 running back out.

14 Q. Who started running back out?

15 A. The robbers.

16 Q. Where were you when you heard someone yell police?

17 A. I was on the floor by the door area in my room.

18 Q. Which area?

19 A. My room door area.

20 Q. Who was in your room at that time?

21 A. Mike Boone, Damon, Nardy, Tyrell.

22 Q. What happened after you heard someone shout police?

23 A. They all started running back towards the door.

24 Q. Who started running towards the door?

25 A. All the robbers.

E8inchr1

T. Smith - direct

1 Q. What happened next?

2 A. Akinto Boone came out the bathroom struggling with the gun
3 with one of the robbers.

4 Q. Then what happened?

5 A. Then I got up and grabbed one of the robbers and I stabbed
6 him.

7 MR. GREENFIELD: Can that be repeated.

8 A. I got up, grabbed one of the robbers, and I stabbed him.

9 Q. Do you know what happened to Akinto?

10 A. He took the gun from the robber.

11 Q. What happened after that?

12 A. I was wrestling with the robber towards the door, and then
13 when we got to the door I realized they was still standing by
14 the door, all the robbers.

15 Q. By which door were they all still standing?

16 A. The front door.

17 Q. What happened when you saw that?

18 A. That's when one of the robbers shot me.

19 Q. Where did you get shot?

20 A. In my upper left thigh.

21 Q. What did you do after you got shot?

22 A. Huh?

23 Q. What did you do after you got shot?

24 A. I buckled and I crawled back to my bedroom.

25 Q. At any point did you hear any other gunfire besides the

E8inchr1

T. Smith - direct

1 shot that shot you?

2 A. Yes.

3 Q. Who was shooting?

4 A. Akinto Boone and the robbers.

5 Q. Which way was Akinto shooting?

6 A. Towards the door.

7 Q. Which way was the robber shooting?

8 A. Towards the bathroom.

9 Q. Do you know why the robbers were stuck at the door?

10 MR. BUCHWALD: Objection. Assumes a fact.

11 THE COURT: Sustained.

12 Q. What were the robbers doing at the front door, to the
13 extent you know?

14 A. They was tugging on the doorknob.

15 Q. Can you say that again?

16 A. Tugging on the doorknob.

17 Q. They were tugging on the doorknob?

18 A. Yes.

19 Q. What happened next?

20 A. That's when I got shot and I crawled back to my room.

21 Q. What happened after you crawled back into your room?

22 A. I start hearing gunfire.

23 Q. Then what happened?

24 A. Akinto Boone knocked on the door and told us that the
25 robbers was gone.

E8inchrl

T. Smith - direct

1 Q. What did you do?

2 A. I was escorted to my car because I couldn't walk and I was
3 taken to the hospital.

4 Q. How did you get to the hospital?

5 A. In my car.

6 Q. How long were you in the hospital?

7 A. Three days.

8 Q. Was the bullet ever removed?

9 A. No.

10 Q. Was Jeffrey Henry at the apartment earlier in the night?

11 A. Yes.

12 Q. At some point did he leave?

13 A. Yes.

14 Q. Do you know if he was planning to come back?

15 A. Yes.

16 (Continued on next page)

17

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E8i9chr2

T. Smith - direct

1 Q. Mr. Smith, when Akinto Boone was struggling with a robber
2 over a gun. Do you remember you said that?

3 A. Yes.

4 Q. Where were the other robbers?

5 A. Running towards the door. Front door.

6 Q. From where?

7 A. Out of the room.

8 Q. Which room?

9 A. My room.

10 Q. Were there any robbers in the kitchen? As far as you
11 remember?

12 A. Yes.

13 MR. NAWADAY: No further questions.

14 THE COURT: Cross-examination. Mr. Greenfield.

15 MR. GREENFIELD: Thank you.

16 CROSS-EXAMINATION

17 BY MR. GREENFIELD:

18 Q. Good morning, Mr. Smith.

19 A. Good morning.

20 Q. After this incident occurred, you testified at a grand jury
21 about three months later. Do you recall that?

22 A. Yes.

23 Q. And you were asked a series of questions about what
24 happened on December -- late hours of either December 14 or the
25 early morning hours of December 15 at 54 Chambers Street; is

E8i9chr2

T. Smith - cross

1 that right?

2 A. Say that again.

3 Q. Sure. When you went to the grand jury about three months
4 after the incident occurred you were asked a lot of questions
5 about the incident itself.

6 A. Yes.

7 Q. And that incident occurred about -- right around midnight
8 or a couple minutes before or a couple minutes after; is that
9 right?

10 A. Yes.

11 Q. That's what I meant by my first question.

12 A. All right.

13 Q. I'd like to, if you can, go through what happens when
14 Akinto last name Boone; am I right?

15 A. Yes.

16 Q. When Akinto Boone exits the bathroom he's fighting or
17 wrestling with somebody; is that right?

18 A. Yes.

19 Q. Is that person wearing a mask, if you recall?

20 A. I don't recall.

21 Q. What's that?

22 A. I don't recall.

23 Q. Did -- were they fighting over something? Were they
24 struggling over something?

25 A. (No response).

E8i9chr2

T. Smith - cross

1 Q. If you recall?

2 A. Were they struggling over something?

3 Q. Were they fighting over a gun? To gain possession of a
4 gun?

5 A. Yes.

6 Q. And how far from you and this individual who were fighting
7 for the -- withdrawn.

8 How far away from you was Akinto and this individual
9 he was fighting with when you stabbed that person?

10 A. How far?

11 Q. Were you right up next to him when you stabbed him?

12 A. Up next to who?

13 Q. The person you stabbed.

14 A. I didn't stab him from laying down on the floor.

15 Q. I'm sorry. I didn't --

16 A. I didn't stab him from laying down on the floor. Of course
17 I was up on him when I stabbed him. That's what you talking
18 about? What you talking about?

19 Q. Did you stab anybody that night?

20 A. Yes.

21 Q. Who did you stab?

22 A. I don't know.

23 Q. Was that the person who was wrestling with -- withdrawn.

24 The person you stabbed is the person who was wrestling
25 with Akinto; isn't that right?

E8i9chr2

T. Smith - cross

1 A. I don't know.

2 Q. You did testify in the grand jury, didn't you?

3 A. (No response).

4 Q. On April -- withdrawn March 8, 2011?

5 A. Yes.

6 Q. Did you tell the grand jury on March 8, 2011 that you
7 stabbed the gunman?

8 A. That what it says on the paper?

9 Q. Say that again.

10 A. Is that what it says on that paper?

11 Q. I will show it to you.

12 A. Then that's what it says then. That was what, four years
13 ago.

14 Q. Do you remember now, as you sit on the stand, that you
15 stabbed the guy with the gun?

16 A. If it says on the paper what I did, that's what I did.

17 Q. Show you what has been previously marked as 3506-10 and
18 direct your attention -- respectfully direct your attention to
19 lines 15 through 20. And ask you to read it. To yourself.

20 (Pause)

21 A. Okay.

22 Q. Does it refresh your recollection as to whether or not you
23 stabbed the guy with the gun?

24 A. I stabbed the guy with the gun.

25 Q. You did?

E8i9chr2

T. Smith - cross

1 A. Yes.

2 Q. Yes?

3 A. Yes.

4 We all had guns. Hard to pick one, was it?

5 Q. But the guy you stabbed, Mr. Smith, was the one who was
6 wrestling with Akinto; isn't that right?

7 A. Yes.

8 Q. Now you told this jury that there were five individuals who
9 came in with guns, do you recall that, justify a few moments
10 ago?

11 A. Yes.

12 Q. Isn't it a fact you told the grand jury back in March of
13 2011 that there were four men who came in with guns?

14 A. I don't remember.

15 Q. Isn't it a fact you told the grand jury -- withdrawn.

16 Isn't it a fact a grand juror asked you if you -- how
17 many people came in with guns and you said four?

18 A. I don't remember.

19 Q. I show you 3506-10, page 23, lines 6 through 12. Read this
20 and see if it refreshes your recollection, Mr. Smith.

21 (Pause)

22 Does it refresh your recollection as to what you told
23 the grand jury back in March of 2011?

24 A. That's what it says, yes.

25 Q. Well, did you or did you not say that?

E8i9chr2

T. Smith - cross

1 A. Yes.

2 Q. Four men with guns, not five?

3 A. Four or five.

4 Q. You didn't say four or five? You said four?

5 A. Well they should have put four or five on there.

6 Q. Did you say four back in March?

7 A. Yes.

8 Q. Three months after this happened?

9 A. Yes.

10 Q. Do you recall as you sit on the stand now if all the men
11 who came in, the four men who came in, were armed and masked?

12 A. Yes.

13 Q. Everybody had a mask on?

14 A. Yes.

15 Q. A few moments ago you were unable to recall whether the man
16 who was wrestling with Akinto Boone had a mask on. Do you
17 recall now that he did have a mask on?

18 A. You said after he came out the bathroom. That's what you
19 said.

20 Q. I'm sorry?

21 A. When he came in he had on -- you said after he came out the
22 bathroom did he have a mask on. I said I don't know.

23 Q. And you're saying when he came out of the bathroom he
24 didn't have a mask on?

25 A. I said I don't know if he had one on.

E8i9chr2

T. Smith - cross

1 Q. Okay. Now, incidentally, did you have any monies in the
2 house, in that apartment on December 15, 2010?

3 A. Yes.

4 Q. Approximately how much did you have?

5 A. Approximately?

6 Q. Approximately.

7 A. Over four thousand, a little over four thousand.

8 Q. And this is a drug establishment?

9 A. Drug establishment?

10 Q. Drug spot.

11 A. No.

12 Q. It was not? It was a residence?

13 A. Yes.

14 Q. And didn't you say earlier that you were selling drugs out
15 of that apartment?

16 A. No. I was selling drugs to get buy. I was -- it wasn't a
17 drug spot. I lived there.

18 Q. Were other people selling drugs in that apartment?

19 A. Yeah.

20 Q. And you named a bunch of people before who were selling
21 drugs in the apartment, didn't you?

22 A. I named two other people.

23 Q. Say that again.

24 A. I named two other people.

25 Q. Anybody else besides those two other people selling drugs

E8i9chr2

T. Smith - cross

1 in the apartment?

2 A. No.

3 Q. But you had over \$4,000 in the apartment?

4 A. Yes.

5 Q. And did you ever see that money again?

6 A. Yes.

7 Q. Under what circumstances?

8 A. Police confiscated it and gave it back to me.

9 Q. Drug proceeds were confiscated and they were given back to
10 you?

11 A. Yes.

12 Q. Who gave you the drug money back?

13 A. Police.

14 Q. Police. When did they give you that money back?

15 A. After I got out of the hospital.

16 Q. What's that?

17 A. After I got out of the hospital.

18 THE COURT: After he got out of the hospital.

19 Q. Did the police visit you in the hospital?

20 A. (No response).

21 Q. And talk with you?

22 A. When I first got there?

23 Q. Yeah. When it first happened or maybe the next day, yes.

24 A. Yes. They came in when it first happened.

25 Q. They knew you were a drug dealer back then, right, the

E8i9chr2

T. Smith - cross

1 first minute you got into conversation with them?

2 A. I don't know that.

3 Q. You don't?

4 A. Nope.

5 Q. Did you have drug paraphernalia in the apartment that day
6 when this incident occurred?

7 You know what I'm talking about, scales, things like
8 that?

9 A. No.

10 Q. You didn't?

11 A. No.

12 Q. And are you saying as you sit on the stand now that between
13 you and the police it was never discussed that you were selling
14 drugs out of the apartment prior to the fact that they gave you
15 back over \$4,000?

16 A. Between me and the police?

17 Q. You and the police, yes.

18 A. When? When? That night?

19 Q. Not that night. Somewhere before the time they gave you
20 the money back?

21 A. I don't recall.

22 MR. GREENFIELD: Now, your Honor, if I can ask the
23 witness to step down. I just want to show him the chart.

24 THE COURT: Do you want to bring the chart over?

25 MR. GREENFIELD: Yes.

E8i9chr2

T. Smith - cross

1 Your Honor, I'd like to show Defendant Christian's
2 Exhibit A.

3 THE COURT: Do you want him to step down?

4 MR. GREENFIELD: Yes.

5 THE COURT: Mr. Smith, you may step down.

6 Q. Mr. Smith, could you show me on this diagram -- do you
7 recognize this diagram as being a diagram of the apartment at
8 54 Chambers Street?

9 A. Yes.

10 Q. Could you show me on this diagram where your bedroom was by
11 putting the letter S1 next to it. And I'm giving you a red
12 marker.

13 A. S1?

14 Q. Letter S-1.

15 This being the entrance. This being the bathroom.

16 A. It's not the setup.

17 Q. It's not the setup?

18 A. No. Because it's way over there should be lined up with
19 those rooms.

20 Q. Well if I tell you this was drawn by Detective Frederick.

21 A. I'm not Frederick.

22 Q. You're not Frederick. Where would your bedroom be. Just
23 put an S1 where it would be.

24 A. It would be in the back. In the back by the bathroom.

25 Q. Please put the S1 there.

E8i9chr2

T. Smith - cross

1 A. I'm saying this is not the setup. You want me to do
2 something that's not the setup. What do you want me to do?

3 Q. You're saying this is an inaccurate diagram of the
4 apartment?

5 A. That's not the setup. You said that.

6 Q. Is this an accurate diagram of the apartment?

7 A. You asked me that question before. You keep asking me the
8 same question.

9 MR. BUCHWALD: Ask the witness to keep his voice up.

10 THE COURT: Yes, please, Mr. Smith.

11 THE WITNESS: The lineup is not right.

12 Q. So it's inaccurate?

13 A. The bedroom is not right.

14 Q. You're saying this is not accurate. Is that what you're
15 saying?

16 A. Yes.

17 Q. I show you now what's -- I ask be marked as the next letter
18 in our exhibit list which would be H, I believe?

19 THE COURT: H?

20 MR. GREENFIELD: I believe so.

21 MR. NAWADAY: No objection.

22 I think this is already in evidence as a government
23 exhibit as well.

24 MR. GREENFIELD: What would be it be -- whatever
25 number is that's in evidence.

E8i9chr2

T. Smith - cross

THE COURT: Is this chart in evidence?

MR. NAWADAY: It is, your Honor.

THE COURT: And what's the exhibit number?

MR. NAWADAY: Government Exhibit 259.

THE COURT: Government Exhibit 259. Okay.

Q. Sir, I'd ask you to look at this diagram and tell me if it is an accurate diagram of your apartment at 54 Chambers Street as it looked on December 15, 2010.

A. Yeah.

Q. Writing the letters S1, could you indicate where your bedroom was -- where you were when these armed -- these four armed masked men came into the apartment.

A. You mean where I was?

Q. Where you were standing.

A. When I encountered them? Is that what you mean?

Q. When you first were aware of their presence in the apartment that day.

A. S1?

Q. Yes.

A. When I first encountered them.

Q. And could you put an S2 as to where you first saw Akinto Boone wrestling with the individual.

A. S2 you said?

Q. Yes, sir.

(Witness complies)

E8i9chr2

T. Smith - cross

1 Q. And could you put an S3 where you stabbed the guy with the
2 gun who was wrestling with Akinto.

3 (Witness complies)

4 Q. So would it be fair to say -- and correct me if I'm
5 wrong -- that S1, S2, and S3 all were within a few feet of each
6 other when this whole incident occurred with the stabbing --
7 when you were stabbing the individual two times?

8 A. Yes.

9 Q. Was that a "yes"?

10 A. Yes.

11 MR. GREENFIELD: Please take the stand again.

12 Q. Now, sometime specifically on March 5 of this year you were
13 interviewed with respect to the incident again by an FBI agent.
14 Do you remember that?

15 A. Yes.

16 Q. And you were asked to go through the incident and he was
17 taking notes as you were talking?

18 A. Yes.

19 Q. And did you tell him that the guy who was stabbed was the
20 guy who lost the gun to Akinto?

21 A. I don't recall.

22 Q. I'm going to show you 3506-16. Ask you to read the
23 second -- the second and third full paragraphs on page two.
24 And I'll indicate where they are.

25 This paragraph and this paragraph.

E8i9chr2

T. Smith - cross

1 (Pause)

2 THE COURT: Okay. Mr. Greenfield, he's done.

3 Q. Did you read those two paragraphs?

4 A. You want me to read both of them?

5 Q. Did you finish reading them?

6 A. Yes.

7 Q. Does it refresh your recollection as to whether or not you
8 told the FBI agent on March 5, 2014 that Akinto -- you stabbed
9 the guy with the gun who was wrestling with Akinto?10 A. Didn't you just ask that question. Isn't that the same
11 question you asked before?

12 MR. GREENFIELD: Judge, I can't hear him.

13 THE COURT: It's a slightly different question,
14 Mr. Smith. The question now is having read those two
15 paragraphs, does reading those two paragraphs refresh your
16 recollection as to what you told the FBI agent at that time?

17 THE WITNESS: No.

18 THE COURT: Next question.

19 BY MR. GREENFIELD:

20 Q. Did you tell the FBI agent: Akinto had the handgun, that
21 he was wrestling it away from the unknown male who was stabbed
22 by you?

23 Did you tell that to the FBI agent or not?

24 MR. NAWADAY: Objection. Asked and answered.

25 THE COURT: Overruled.

E8i9chr2

T. Smith - cross

1 THE WITNESS: I don't recall.

2 MR. GREENFIELD: No further questions.

3 THE COURT: Very well.

4 Any recross?

5 MR. GOLTZER: No, thank you.

6 THE COURT: Mr. Buchwald.

7 CROSS-EXAMINATION

8 BY MR. BUCHWALD:

9 Q. Good morning, Mr. Smith.

10 A. Good morning.

11 Q. You testified in response to Mr. Greenfield's questions
12 that you remember having testified in a grand jury, a New York
13 state grand jury a few months after the incident involving the
14 robbery at 54 Chambers? Correct?

15 A. (No response).

16 Q. Do you remember just answering some question about
17 testifying in a grand jury a few months after the incident at
18 54 Chambers?

19 A. Yes.

20 Q. All right. And at that time when you testified -- and that
21 was a grand jury up in Orange County, correct?

22 A. Yes.

23 Q. New York state grand jury, correct?

24 A. (No response).

25 Q. It wasn't a federal grand jury? It was a state grand jury?

E8i9chr2

Smith - recross

1 Correct?

2 A. Yes.

3 Q. And it was explained to you that when you testified in the
4 grand jury that you would automatically get transactional
5 immunity about anything that you testified about as long as
6 your answers were responsive to the questions; isn't that
7 right?

8 THE COURT: Do you understand the question, Mr. Smith?

9 THE WITNESS: Yes. But I don't remember.

10 BY MR. BUCHWALD:

11 Q. You understood that you couldn't get in trouble when you
12 testified in that grand jury you couldn't get in trouble about
13 having stabbed someone, correct?

14 A. (No response).

15 Q. Do you understand the question, sir?

16 A. No.

17 Q. When you testified in the grand jury, did you believe that
18 you could get in trouble for having stabbed someone?

19 A. Yeah, I believe I could -- did I believe I could get in
20 trouble?

21 Q. Did you understand that when you testified in the grand
22 jury you automatically got immunity for anything having to do
23 with the stabbing of somebody?

24 A. (No response).

25 Q. Did you understand that?

E8i9chr2

Smith - recross

1 A. I don't know what you're talking about.

2 Q. When you testified in the grand jury in March of 2011 at
3 that time you remembered, did you not, that the person you
4 stabbed was the person who Akinto had wrestled the gun away
5 from; isn't that so?

6 A. (No response).

7 Q. You remembered it then three months after the offense;
8 isn't that so?

9 A. You got transcripts over there too?

10 Q. Same transcript.

11 A. Then you already know what I said.

12 Q. And you agree that that's what you said under oath in that
13 grand jury, correct? You just read it, did you not?

14 A. Yes.

15 Q. And a few months ago in 2014 you were interviewed by an FBI
16 Agent Strobel. Do you recall that?

17 A. Yes.

18 Q. And a few months ago in 2014 when you were interviewed by
19 FBI Agent Strobel you remembered then as well that the person
20 you stabbed was the person who Akinto had wrestled the gun away
21 from; isn't that so?

22 A. Do you got another paper down there for I could see it?

23 Q. Sure. I direct your attention to 3506-16, page two, the
24 third sentence of the second full paragraph.

25 MR. BUCHWALD: May I approach, your Honor?

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Smith - recross

1 THE COURT: You may.

2 Q. First let me show you the first page with the date.

3 MR. NAWADAY: Objection, your Honor. I think these
4 are the same questions that were asked.

5 MR. BUCHWALD: Different interrogator.

6 THE COURT: I haven't heard a question.

7 BY MR. BUCHWALD:

8 Q. I'm going to show you the date, the name of the agent. Now
9 I direct your attention to the third sentence of the second
10 full paragraph which I've underlined. Read as much of it as
11 you want for the context.

12 (Pause)

13 Q. Have you read it, sir?

14 MR. GOLTZER: What page, Mr. Buchwald?

15 MR. BUCHWALD: Page 2 of 3506-16, second full --
16 second full paragraph, third sentence.

17 Q. Have you read that, sir?

18 A. (No response).

19 Q. Having seen that, does that refresh your recollection that
20 you remembered when you spoke to FBI Agent Strobel earlier this
21 year that the guy who you stabbed was the guy who lost his gun
22 to Akinto Boone? Do you recall that now?

23 A. Yes.

24 Q. Okay.

25 A. Yes.

E8i9chr2

Smith - recross

1 Q. What was it then between the interview that you gave just a
2 few months ago to Agent Strobel where you repeated what you had
3 said under oath in the grand jury in March of 2010, what is it
4 between then and now that caused you to forget that?

5 A. I don't understand.

6 Q. How many times between then and now have you been
7 interviewed by the prosecutors in this case?

8 A. A few times.

9 Q. Have you been interviewed since the opening statement that
10 I gave in this case?

11 Have you been interviewed by the prosecutors in this
12 case since the opening statement that I made in this case?

13 MR. NAWADAY: Objection. He has no knowledge of when
14 this is.

15 THE COURT: Yes. We can hear you just fine,
16 Mr. Buchwald.

17 BY MR. BUCHWALD:

18 Q. Have you been interviewed since August 5 by the prosecutors
19 in this case?

20 A. Since August 5?

21 Q. Since August 5, roughly two weeks ago.

22 A. This morning.

23 Q. Interviewed this morning. And before this morning, in the
24 last two weeks were you interviewed by the prosecutors or by
25 the federal agents in this case either on the telephone or in

E8i9chr2

Smith - recross

1 person?

2 A. I don't know. I don't remember if it was two weeks, three
3 weeks, I don't know.

4 Q. Now, about that gun which was wrestled away by Akinto from
5 the guy who you stabbed, do you recall what model or make of
6 gun that was?

7 A. No.

8 Q. Do you remember having been asked in the past about what
9 model or make of gun that was?

10 A. Does it include color?

11 Q. The color, or the model, or the kind of gun. Do you
12 remember being asked in the past about that?

13 A. I don't recall.

14 Q. Do you remember being interviewed shortly after you got out
15 of the hospital by a Newburgh detective by the name of Cortez?

16 A. Yes.

17 Q. And do you recall that interview occurring on or about
18 December 20 of 2010, just shortly after you got out of the
19 hospital?

20 A. Yes.

21 Q. And do you remember telling Detective Cortez that the gun
22 was an automatic, black and dark gray, an automatic?

23 A. No.

24 Q. Let me show you what has previously been marked as 3506-9
25 for identification, and direct your attention to the page in

E8i9chr2

Smith - recross

1 the report that's marked one of four.

2 MR. BUCHWALD: May I approach, your Honor?

3 THE COURT: You may.

4 Q. And see if that refreshes your recollection.

5 (Pause)

6 Q. Does it refresh your recollection, sir?

7 A. No.

8 Q. You had a better recollection of the type of gun back in --
9 on December 20, five days after the events than you do today?

10 A. No.

11 Q. You remember it as well today as you did then?

12 A. No.

13 Q. So you remembered it better then than now?

14 A. No.

15 Q. Is it not a fact, sir, that you told Detective Cortez that
16 the gun was dark black and dark gray and it was an automatic?

17 A. I don't remember saying that.

18 Q. Do you deny that you said that, sir?

19 A. No, I do not -- I didn't say it -- I don't remember that it
20 was an automatic. I know it was a gun. I know it was pointing
21 in my face. That's all I know. I don't know it was automatic.

22 Q. Do you remember telling Detective Cortez that it was an
23 automatic?

24 A. No. I don't remember telling him that it was an automatic.

25 Q. You do know the difference between an automatic and a

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Smith - recross

1 revolver; isn't that right?

2 A. Yes.

3 Q. You know that an automatic -- you know, for example, that a
4 9-millimeter would be an automatic, correct?

5 A. Yes.

6 Q. Now, do you recall, sir, testifying in the grand jury about
7 Akinto Boone having fired that weapon that he wrestled away
8 from the guy who you stabbed?

9 A. (No response).

10 Q. Do you recall that?

11 A. Yes.

12 Q. And did he fire that weapon before or after you were shot?

13 A. After.

14 Q. And did you see the direction of where he was firing or who
15 he was firing at?

16 A. Yes.

17 Q. And what was the direction? Who was he firing at?

18 A. He was firing towards the door.

19 Q. In the direction of the people in the front or the guy who
20 had shot you? Correct?

21 A. The robbers?

22 Q. Yes.

23 A. Yes.

24 Q. So, if you were the front door and I was Akinto Boone, I
25 was firing in this direction toward you, the front door,

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Smith - recross

1 correct?

2 A. Yes. He was firing at the front door. Or towards the
3 front door. Or whatever you want to call it.

4 Q. And he fired a couple of shots; isn't that right?

5 A. Yes.

6 Q. And when he was firing at the direction of the front door
7 was the inner door, the hallway door open or closed?

8 A. (No response).

9 Q. If you remember.

10 A. He was exchanging gunfire so it had to be open.

11 Q. So you weren't -- withdrawn.

12 When you left the house that night -- withdrawn.

13 After you were shot, you were taken to the hospital,

14 correct?

15 A. Yes.

16 Q. And when you left the house on the way to the hospital was
17 that the first time since the robbers had come in that you left
18 the house?

19 A. Yes.

20 Q. So, did you or did you not see Joker there when you were
21 leaving on the way to the hospital?

22 A. No.

23 Q. You did not see him, correct?

24 A. No.

25 Q. So, do you know if Joker was shot by the robbers or by two

E8i9chr2

Smith - recross

1 9-millimeter bullets fired by Akinto toward the front door when
2 he was firing at the people or the person who had fired at you?
3 Do you know?

4 A. No.

5 Q. Now I think -- I'm not sure if you testified. Am I
6 correct, sir, that you estimated that when the guy shot you in
7 the thigh that you were about eight to ten feet from him; is
8 that correct?

9 A. I don't recall saying that.

10 Q. Well about how far were you from the guy who shot you?

11 A. The first door going out, outside.

12 Q. Say that again.

13 A. The first door going outside, towards going out the
14 apartment.

15 Q. In other words, the door -- the outer door, the one that
16 leads onto the street, correct?

17 A. No.

18 Q. Which door are you talking about?

19 A. You got a diagram, and I will show you.

20 Q. You just referred to a door. I want to know which door are
21 you talking about. Are you talking about the door that goes
22 onto the street or the inner door?

23 A. The inner door.

24 Q. The inner door. All right. The person who shot you was
25 there?

E8i9chr2

Smith - recross

1 A. (No response).

2 Q. Was standing by the inner door?

3 A. No. He was standing by the front door.

4 Q. He was standing by the front door?

5 A. Yes.

6 Q. And where were you standing?

7 A. By the inner door.

8 Q. By the inner door. All right. So that was the approximate
9 distance?

10 A. Yes.

11 Q. The distance between the outer door and the inner door?

12 A. Yes.

13 Q. And that's -- when you got shot, you were somewhere near
14 the inner door?

15 A. Yes.

16 Q. Okay. And that bullet was never removed from your leg,
17 correct?

18 A. Yes.

19 Q. In the hospital they determined that it would be best to
20 not remove the bullet because that could cause additional
21 injury and to just leave it there and put in the rods and
22 things that they needed to put in, correct?

23 A. Yes.

24 Q. And it's still there, correct?

25 A. Yes.

E8i9chr2

Smith - recross

1 Q. Now, in the hospital you came to understand and to realize
2 that just a few bays or beds down from you was a stabbing
3 victim, correct?

4 A. Yes.

5 Q. And you told the police: Hey, the stabbing victim might be
6 one of the robbers because you knew you had stabbed somebody,
7 correct?

8 A. Yes.

9 Q. And the stabbing victim's father was somebody by the name
10 of -- well do you remember the name of the stabbing victim's
11 father?

12 A. Anthony Baynes.

13 Q. Anthony Baynes, Sr.?

14 A. Yes.

15 Q. And Anthony Baynes, Sr. you recognized as a cousin of
16 yours; is that right?

17 A. Yes.

18 Q. Now, I think you testified that you were testifying here in
19 this trial under a grant of federal immunity; is that right?

20 A. Yes.

21 Q. When was it that you told the prosecutors that you were
22 going to plead the Fifth Amendment?

23 A. When?

24 Q. Yeah. When did you tell them you were going to plead the
25 Fifth Amendment if you didn't get federal immunity?

E8i9chr2

Smith - recross

1 A. When did I tell them that?

2 Q. Yeah. Or did you tell them that?

3 A. I don't recall telling them that.

4 Q. Did you write them a letter saying I'm going to plead the
5 Fifth if I don't get federal immunity?

6 A. No.

7 Q. Well whose idea was it that you get immunity and that you
8 say that you were going to plead the Fifth?

9 A. Well me and my wife talked about, it and we talked about
10 it.

11 Q. "We" meaning you and the prosecutors talked about it?

12 A. Yes.

13 Q. And did they suggest to you that you plead the Fifth and
14 get immunity or did you suggest to them that you plead the
15 Fifth and get immunity?

16 A. I don't recall.

17 THE COURT: Mr. Buchwald, it's quarter after the hour
18 so why don't we break now, take our morning break. Fifteen
19 minutes. Please be in the jury room no later than 11:30.
20 Please do not discuss the case.

21 (Jury excused)

22 THE COURT: Mr. Smith, you may step down but please
23 don't go far because we need you back on the witness stand at
24 11:30, okay?

25 THE WITNESS: Yes.

E8i9chr2

Smith - recross

1 (Recess)

2 THE COURT: Have we located the witness?

3 TARRENCE SMITH, resumed.

4 (Jury present)

5 THE COURT: Everyone please be seated.

6 Mr. Buchwald.

7 MR. BUCHWALD: Thank you, your Honor. I have no
8 further questions.

9 THE COURT: Okay. Any further cross-examination?

10 MS. STAFFORD: No questions on behalf of Mr. Whitaker.

11 THE COURT: Very well.

12 Any redirect?

13 MR. NAWADAY: Just briefly, your Honor.

14 REDIRECT EXAMINATION

15 BY MR. NAWADAY:

16 Q. Now, Mr. Smith, you were asked some questions about the
17 robbers who came to that apartment that night. Do you remember
18 those questions?

19 A. Yes.

20 Q. When you saw that first robber who told you to get into
21 your room, get on the floor, where was Akinto at that point?

22 A. Akinto was out towards the door.

23 Q. And you were asked questions about -- by the way when you
24 went into that room, you had gone to the floor; is that right?

25 A. Yes.

E8i9chr2

T. Smith - redirect

1 Q. Which way were you facing?

2 A. (No response).

3 Q. Where were you keeping your head?

4 A. I was by my -- my bedroom door.

5 Q. Could you see everybody in the apartment at that point?

6 A. Yes.

7 Q. Could you see people in the front of the apartment at that
8 point when you were on the floor?

9 A. In the front --

10 Q. Of the apartment?

11 A. No.

12 Q. And am I right that you don't know whether other robbers
13 came in after the first robbers you saw?

14 A. After I first -- after the first robbers, no, I don't know
15 if anything more came in.

16 MR. NAWADAY: No further questions.

17 THE COURT: Anything further?

18 MR. BUCHWALD: No.

19 THE COURT: Mr. Greenfield?

20 MR. GREENFIELD: No.

21 THE COURT: Very well. Sir, you may step down.

22 (Witness excused)

23 THE COURT: Mr. Bauer.

24 MR. BAUER: Your Honor, the government calls its next
25 witness, William Lahar.

E8i9chr2

T. Smith - redirect

1 THE COURT: Mr. Lahar, please watch your step. Step
2 into the witness box and face the court deputy.

3 Remain standing.

4 Mr. Lahar, please be seated. Pull your seat up.
5 Speak directly into the microphone slowly and please begin by
6 stating your full name and spelling your first and last name
7 for the record.

8 WILLIAM LAHAR,

9 called as a witness by the Government,

10 having been duly sworn, testified as follows:

11 THE COURT: Thank you.

12 Mr. Bauer.

13 MR. BAUER: Thank you, your Honor.

14 DIRECT EXAMINATION

15 BY MR. BAUER:

16 Q. What do you do for a living?

17 A. Police officer.

18 Q. Where?

19 A. City of Newburgh.

20 Q. What's your rank with the City of Newburgh police
21 department?

22 A. Police officer.

23 Q. How long have you been there?

24 A. Approximately twelve years.

25 Q. What did you do before working at the Newburgh police

E8i9chr2

W. Lahar - direct

1 department?

2 A. I went to college.

3 Q. Are you assigned to a particular division or unit in the
4 Newburgh police department?

5 A. Yes, sir, I am.

6 Q. What is that?

7 A. Currently it's the patrol division.

8 Q. How long have you been in patrol?

9 A. Twelve years.

10 Q. Have you been -- during the twelve years have you been part
11 of any other units or divisions at the Newburgh PD?

12 A. Yes, I have.

13 Q. What's that?

14 A. I've been assigned to the anticrime unit, the proactive
15 arrest team, member of the SWAT team, member of the sniper
16 team.

17 Q. And to be clear back in 2010 and 2011 what unit or division
18 were you in?

19 A. I was assigned to the anticrime unit, ACU.

20 Q. What were your duties and responsibilities in that unit?

21 A. It's a plainclothes unit. You're focusing on
22 quality-of-life issues, open-air drug dealing, proactive-type
23 crime fighting.

24 Q. I'm sorry. What was the last part?

25 A. Proactive-type crime fighting.

E8i9chr2

W. Lahar - direct

1 Q. Proactive as opposed to what?

2 A. Reactive.

3 Q. As part of the anticrime unit, were you assigned to a
4 particular part of the city?

5 A. The whole entire city was ours.

6 Q. Are you familiar with Zone B?

7 A. Yes.

8 Q. Of Newburgh?

9 A. Yes, I am.

10 Q. And what part of the city is that?

11 A. That's the northeast side.

12 Q. Was Chambers Street part of that?

13 A. Yes, it is.

14 Q. Back in 2010 and 2011 how often each day or each week would
15 you go to Zone B of this northeast part of the city?

16 A. It was a good amount. I can't put a specific number on how
17 many times we were on that street but we were pretty regular
18 there.

19 Q. Would you go at least once a day?

20 A. More than that.

21 Q. During all your time in the Newburgh PD both patrol or
22 anticrime did you participate in any arrests in this part of
23 the city, Zone B, the northeast part of the city?

24 A. Yes.

25 Q. How many, approximately?

E8i9chr2

W. Lahar - direct

1 A. During the whole entire twelve-year career?

2 Q. Yeah.

3 A. Hundreds.

4 Q. And for what types of crimes?

5 A. Everything from open-container violations, driving with
6 suspended license, to drug crimes, gun-related crimes.

7 Q. Did you participate in arrests involving the seizure of
8 guns?

9 A. Yes.

10 Q. Approximately how many were those?

11 A. In the twelve years?

12 Q. Yeah.

13 A. Maybe a couple dozen.

14 Q. Officer Lahar, I'm going to draw your attention to the
15 early morning hours of December 15, 2010. Were you working
16 that night?

17 A. Yes, I was.

18 Q. What shift were you working?

19 A. December 15 would have been the midnight shift.

20 Q. Was that 12 a.m. to 8 a.m.?

21 A. Yes. I'm sorry. Twelve to 8 a.m.

22 Q. And was that part of anticrime or patrol?

23 A. That was patrol.

24 Q. But at that point you were in anticrime?

25 A. Yes.

E8i9chr2

W. Lahar - direct

1 Q. And what was your normal shift during that time?

2 A. It would have been I believe 4 to 12.

3 Q. So were you working overtime on December 15, 2010?

4 A. Yes.

5 Q. What was the difference, any differences with how you
6 handled your 4-to-12 shift in anticrime versus your 12-to-8
7 shift in patrol?

8 A. Yes. For the 4-to-12 I would have been in plainclothes and
9 unmarked car. For the midnight shift I would have to put a
10 uniform on and drive a marked police car.

11 Q. At the beginning of that patrol shift just after midnight
12 what were you doing?

13 A. Just after midnight I would have been just been clearing
14 read-off and setting my car to go on the road.

15 Q. What's read-off?

16 A. Read-off, get together before the shift starts and they
17 give you information as to who's wanted, different crime
18 statistics, areas of focus.

19 Q. Then you proceeded to patrol by car?

20 A. Yes.

21 Q. Were you by yourself or with someone else in the car?

22 A. By myself.

23 Q. And did there come a point in time where you responded to
24 anywhere in Zone B on December 15, 2010?

25 A. Just after midnight, yes.

E8i9chr2

W. Lahar - direct

1 Q. Where did you go?

2 A. The area of First and Grant.

3 Q. Did you stop there or were you rerouted?

4 A. I was rerouted.

5 Q. And responding to First and Grant, why did you do that?

6 A. We had gotten a report of shots fired in the area.

7 Q. Okay. And then you were rerouted to where?

8 A. The area of Lander Street.

9 Q. And when you got to Lander Street what, if anything, did
10 you see?

11 A. I saw a man laying on the sidewalk and a vehicle parked in
12 the middle of Lander Street with the driver's side door opened
13 and a black female standing outside the car.

14 Q. Do you know who that female was?

15 A. I can't remember her name off the top of my head.

16 Q. You said there was a man lying on the ground?

17 A. Yes, there was.

18 Q. On the sidewalk?

19 A. Yes.

20 Q. Were there any officers there already?

21 A. Yes. Officer Moore arrived just before I did.

22 Q. And the person who was lying on the sidewalk, did you come
23 to learn his identity?

24 A. I did.

25 Q. Who was that?

E8i9chr2

W. Lahar - direct

1 A. Jeffrey Henry.

2 Q. And what was Mr. Henry's condition when you arrived?

3 A. Wasn't good. He had labored breathing. I could see a good
4 amount of blood on his person and on the sidewalk, I believe,
5 as well.

6 Q. But he was alive at that point?

7 A. Yes.

8 Q. Was he conscious?

9 A. He was in and out of consciousness.

10 Q. Did you speak with him?

11 A. I did.

12 Q. What, if anything, did you say or he say?

13 A. I had asked him his name.

14 Q. What did he say?

15 A. He screamed Jeff.

16 Q. What, if anything, else did you do after he said his name?

17 A. I don't remember.

18 Q. Do you remember what he was wearing that day?

19 A. No.

20 Q. Do you know if he was wearing a jacket?

21 A. He was wearing some kind of outer garment but I can't
22 specify it was a jacket or a sweatshirt or what it was.

23 Q. Did you take a look at any of his wounds?

24 A. Yes.

25 Q. Tell us about that.

E8i9chr2

W. Lahar - direct

1 A. I can remember trying to see where the blood was coming
2 from. I believed it to be a gunshot wound. And I can remember
3 opening up or unzipping an outer garment and pulling it to one
4 side or the other and seeing an apparent gunshot wound.

5 Q. And when you say you saw the apparent gunshot wound, what
6 specifically did you see?

7 A. It was a lot of blood on the under garments and because of
8 the coldness outside I could see the steam coming from the
9 apparent wound.

10 Q. So what did you do after that, after you saw the wound?

11 A. I can remember using the radio because I think a mobile
12 life ambulance provider had stayed in the area before it was
13 secure. I remember contacting communications and telling them
14 to have them come into the area to expedite.

15 Q. Did you go anywhere else after Lander Street that day?

16 A. Yes, I did.

17 Q. Where did you go?

18 A. I had left Henry and we were checking the area for a crime
19 scene or where he may have come from. And shortly after that I
20 was directed to 54 Chambers Street.

21 Q. And when you got to 54 Chambers what, if anything, did you
22 see?

23 A. Sergeant Carrion had actually met us at First and Chambers
24 and then we directed our attention to 54 Chambers. When I got
25 to that location, I could see a good amount of blood on the

E8i9chr2

W. Lahar - direct

1 front like doorstep by the threshold.

2 Q. And did you go in the house at 54 Chambers?

3 A. Yes, we did.

4 Q. And what types of things did you see when you walked in
5 there?

6 A. There was some blood on a wall, I remember. There was a
7 barbecue grill that was by the front door that was pretty shot
8 up. I can't think of much else.

9 Q. Did you see shell casings and bullet holes and things like
10 that?

11 A. I remember seeing bullet holes that was somewhere -- that
12 was in the barbecue grill. I know there were shell casings
13 there. I just can't remember where specifically I saw them.

14 Q. Sure. Just one more question on that. Was anyone else in
15 the house -- besides officers, I mean.

16 A. Besides officers, no.

17 Q. So what did you do after you walked through the house?

18 A. Sergeant Carrion determined that it was clear and safe and
19 he had me post up to make sure nobody came in or out.

20 Q. Why was that?

21 A. To preserve the scene until the crime scene unit got there.

22 Q. Were you there when crime scene came?

23 A. No. I was relieved a short while later by Officer Perez.

24 Q. Okay. Officer Lahar, I want draw your attention to

25 February 7, 2010 approximately 12:43 a.m. Were you working

E8i9chr2

W. Lahar - direct

1 that night?

2 A. Yes, I was.

3 Q. And did you participate in the arrest of Raymond Christian
4 on that night?

5 A. I did.

6 Q. What shift were you working that night?

7 A. It was same thing, midnight shift, from 4 to 12.

8 Q. You were in a marked car?

9 A. Yes.

10 Q. By yourself or with other people?

11 A. By myself.

12 Q. Had you ever seen Raymond Christian prior to that night?

13 A. That specific night, yeah.

14 Q. Before February 7, had you seen him before?

15 A. Yep.

16 Q. Approximately how many times?

17 A. I don't -- maybe half dozen.

18 Q. Where had you seen him?

19 A. Various areas but specifically that side of the city, the
20 northeast.

21 Q. I'm sorry?

22 A. Specifically that side of the city, northeast.

23 Q. The northeast part of the city?

24 A. Yeah.

25 Q. But did you ever participate in any other arrests of him?

E8i9chr2

W. Lahar - direct

1 A. I don't recall if it was actually arrests or just chance
2 encounters on the street or just seeing him passing through.

3 Q. Okay. So what, if anything, happened that night
4 February 7, 2010 that led to his arrest?

5 A. We had got a radio dispatch, a man with a gun. The
6 description, from what I recall was a black male wearing a red
7 vest. I drove into the area where he was. It was in the area
8 of Chambers and South. My brother, Officer Kevin Lahar, had
9 come into the area around the same time as me.

10 At some point in time I observed Christian running
11 across South Street. I had to throw my car in reverse. Went
12 as far as I could to pursue him. And I got out of the car and
13 pursued him on foot from there.

14 Q. Walk us through the part where you put the car in reverse.
15 Where were you when you pulled up?

16 A. I had come -- I had come westbound on South Street from I
17 think I want to say it was Liberty. So I was going up South
18 Street to where he allegedly was, the suspect was, and the
19 other officer, Officer Kevin Lahar, was coming eastbound on
20 South Street. We kind of arrived about the same time.

21 I didn't see the person that matched the description
22 at first. Made the turn on Chambers Street. And then saw
23 Kevin getting out of his car. And then I saw Mr. Christian
24 running southbound across South Street towards Chambers.

25 Q. So at that point before he started -- before Mr. Christian

E8i9chr2

W. Lahar - direct

1 started running had you gotten out of the car yet?

2 A. No.

3 (Continued on next page)

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E8inchr3

W. Lahar - direct

1 Q. Once he started running, that's when you put the car in
2 reverse?

3 A. He was running behind me, so I had to put the car in
4 reverse to try to join him.

5 Q. At some point you said you got out of the car and pursued
6 him on foot?

7 A. Yes, I got out of the car and I wanted to see if there was
8 traffic or something like that. I had to get out of the car
9 and proceed on foot.

10 Q. While he was running, did you observe anything that he did?

11 A. Yes.

12 Q. What did you see?

13 A. He made a motion with his arm up into the air.

14 Q. Like what? I'm sorry. Can you describe the motion?

15 A. Just a toss.

16 Q. Tossing motion?

17 A. Yes.

18 Q. Did you see what he had tossed?

19 A. No, I didn't.

20 Q. While he was running and he did the tossing motion, was
21 your brother Kevin Lahar chasing after him?

22 A. I don't remember what he was doing.

23 Q. At some point do you know if officer Kevin Lahar stopped
24 chasing him?

25 A. Yes.

E8inchr3

W. Lahar - direct

1 Q. Why was that?

2 A. At some point in time I remember Kevin standing on the
3 corner, just kind of standing there, and then he put over the
4 radio as I was still involved in the pursuit that he had tossed
5 the gun.

6 Q. He meaning Raymond Christian?

7 A. Right, the person that was running.

8 Q. Did you eventually catch Mr. Christian?

9 A. Yes.

10 Q. Where was that?

11 A. Somewhere just east of South Street on Chambers.

12 Q. Were you by yourself or were other officers there as well?

13 A. Officer Keith Gonzalez was there as well.

14 Q. It was officer Kevin Lahar who saw the gun?

15 A. Yes.

16 Q. And do you remember who recovered it?

17 A. No, I don't.

18 Q. Was it you?

19 A. I don't believe it was me, no.

20 Q. Officer Lahar, I now want to draw your attention to one
21 more incident, February 28, 2011, approximately 6 p.m.

22 Were you working that night?

23 A. Yes, I was.

24 Q. Did you participate in the arrest of Glenn Thomas that
25 night?

E8inchr3

W. Lahar - direct

1 A. I did.

2 Q. So if we are at 6 p.m., were you working the 4 p.m. to 12
3 p.m. shift?

4 A. Yes.

5 Q. Anticrime or patrol?

6 A. Anticrime.

7 Q. So unmarked and unmarked?

8 A. Yes, I believe we were in an unmarked car.

9 Q. You were in plainclothes?

10 A. I believe so, yes.

11 Q. Were you by yourself or with other people?

12 A. Other people.

13 Q. Who were you with?

14 A. Detective Loscerbo and Officer Kevin Lahar.

15 Q. Where did you arrest Mr. Thomas?

16 A. In the area of Broadway and Lutheran Street.

17 Q. Had you ever seen Glenn Thomas prior to that night?

18 A. I don't recall seeing him before that night, no.

19 Q. Why were you in this unmarked car patrolling near Broadway
20 and Lutheran that evening?

21 A. We had been checking the area for robbery suspects from an
22 incident that occurred I want to say about 30 minutes or so
23 prior to the arrest time.

24 Q. Was a description of the suspects aired?

25 A. From the original call, yeah.

E8inchr3

W. Lahar - direct

1 Q. Then what, if anything, did you see at Broadway and
2 Lutheran?

3 A. We observed I believe it was three males that were matching
4 the description from the earlier robbery.

5 Q. Did you ultimately identify who those individuals were?

6 A. Yes.

7 Q. Did you get out of the car to talk to them?

8 A. Yes.

9 Q. Who were they?

10 A. Jamar Mallory, Glenn Thomas -- I can't remember the other
11 person that was there.

12 Q. That's fine. Had you seen them before, Mallory and the
13 other person before?

14 A. Specific to this incident or throughout the whole --

15 Q. Prior to this? Prior to February 28, 2011 had you seen
16 Mallory and the other guy before?

17 A. I had interaction with Mallory before. I can't remember
18 having interaction with Thomas at all, but it's possible.

19 Q. So what happened when you got out of the car to talk to
20 these individuals?

21 A. We all got out, and one of them, Mallory, went into the
22 store real quick, which piqued my attention, and I went in to
23 stop him.

24 Q. Did he ultimately come out of the store?

25 A. Yes, I escorted him back out of the store.

E8inchr3

W. Lahar - direct

1 Q. When you escorted him out of the store, what, if anything,
2 did you see?

3 A. Detective Loscerbo was dealing with Thomas, and he had him
4 with his hands on the side of the bodega and he was proceeding
5 to check him for weapons.

6 Q. What happened after that?

7 A. At some point in time I looked over at Mike, and he was
8 checking the lower portion.

9 Q. "Mike" is Detective Loscerbo?

10 A. I'm sorry. Detective Loscerbo. Yes. He was checking the
11 lower portion of him and all of a sudden his eyes just got real
12 wide.

13 Q. Then what happened?

14 A. Thomas spun away from Loscerbo and started to flee.

15 Q. Did Loscerbo explain why his eyes got wide, why Thomas was
16 fleeing?

17 A. He screamed gun.

18 Q. He screamed gun. Then what did you do?

19 A. I started to go after Thomas. I was able to grab him just
20 by a finger in his shirt.

21 Q. And what happened?

22 A. The two of us fell into a car and then we fell on to the
23 pavement. And then Loscerbo, Kevin -- it was kind of like a
24 dog pile so to speak, and we were trying to get him in
25 handcuffs at that point.

E8inchr3

W. Lahar - direct

1 Q. Was he ultimately handcuffed?

2 A. Yes, he was.

3 Q. Loscerbo said there was a gun, right?

4 A. Yes.

5 Q. Did you eventually recover a gun?

6 A. Yes.

7 Q. Were you part of that?

8 A. I was.

9 Q. From where did you recover the gun?

10 A. It was in, like, the groin area, like lower groin area
11 concealed inside of -- I don't know if it was a pair of long
12 underwear or a pair of shorts.

13 Q. Who actually got the gun? Was it you by yourself or
14 another officer there?

15 A. Krasky was there to help me. Officer David Krasky.

16 Q. Do you remember what kind of gun it was?

17 A. It was a revolver. I can remember that.

18 MR. BAUER: Your Honor, may I approach?

19 THE COURT: You may.

20 Q. Officer Lahar, I'm showing you what's been admitted already
21 as Government Exhibit 141. Do you recognize this gun?

22 A. I do.

23 Q. You do. Prior to testifying today, had you seen this gun
24 before?

25 A. Yes.

E8inchr3

W. Lahar - direct

1 Q. And what gun is it?

2 A. It appears to be the same gun I recovered from Thomas.

3 Q. Do you remember anything else you recovered from Thomas or
4 Mallory or the third guy?

5 A. I remember there was something about a magazine. I just
6 don't remember who it was recovered from.

7 Q. It wasn't you who recovered the magazine?

8 A. No. I'm sorry, no, it wasn't.

9 Q. After Glenn Thomas was arrested, did you speak with him?

10 A. I don't believe I did.

11 MR. BAUER: Your Honor, no further questions.

12 THE COURT: Very well. Cross-examination?

13 MR. STRAZZA: No questions.

14 MS. STAFFORD: No.

15 THE COURT: Mr. Greenfield.

16 MR. GREENFIELD: No.

17 THE COURT: Mr. Buchwald?

18 MR. BUCHWALD: Yes, your Honor.

19 THE COURT: Mr. Dratel?

20 MR. DRATEL: Yes, I do.

21 CROSS EXAMINATION

22 BY MR. DRATEL:

23 Q. I show you what is in evidence already -- good afternoon.

24 A. Good morning, sir.

25 Q. Maybe not, just about.

E8inchr3

W. Lahar - cross

1 I show you what's in evidence as Government's Exhibit
2 251. That is a map of Newburgh, right? Part of Newburgh?

3 A. Yes.

4 Q. So that red spot there the A that's Chambers and First
5 street, right? Do you see where that red A is?

6 A. Yes.

7 Q. That's 54 Chambers basically, correct?

8 A. It looks about right, yes.

9 Q. If you go to the left on First Street for basically a block
10 you get to Lander, right?

11 A. Yes, sir.

12 Q. And 45 Lander is somewhere in that corner area. That is
13 where Mr. Henry was, right?

14 A. 56 Lander is the corner store. If you are going up First
15 Street from A --

16 Q. Yes.

17 A. -- if you make that left.

18 Q. In other words, if we are looking at the map going left on
19 first, left meaning up First Street towards Lander is one
20 block?

21 A. Yes.

22 Q. And 45 Lander is kind of where you found Mr. Henry?

23 A. Yes, sir.

24 Q. That would be maybe a little bit to the left on Lander down
25 from First?

E8inchr3

W. Lahar - cross

1 A. Yes, sir.

2 Q. And Lander runs up, so that the numbers would go higher?

3 A. Yes, sir.

4 Q. So 138 Lander, if you are going on First Street and you get
5 to First and Lander, 138 Lander would be to your right on this
6 map? You would go up, you would make a right on Lander?

7 A. 138 Lander?

8 Q. 138 Lander.

9 A. Is going to be just past Farrington street.

10 Q. Farrington Street, you see it is one more block up, if you
11 are going on First Street and we hit Lander --

12 A. Yes.

13 Q. -- we make a right on Lander to get up to Farrington,
14 right?

15 A. Yes, sir.

16 MR. DRATEL: That is it.

17 I have nothing further, your Honor.

18 THE COURT: All right. Any redirect?

19 MR. BAUER: No, your Honor.

20 THE COURT: Mr. Lahar, you may step down.

21 THE WITNESS: Thank you.

22 (Witness excused)

23 MR. BAUER: Judge, before we call our next witness,
24 who is going to be Officer John Maguire, the government wanted
25 to offer --

E8inchr3

W. Lahar - cross

MR. BUCHWALD: Can we have a limiting instruction with regard to the last witness. There are two parts that I want to an instruction on.

THE COURT: I don't know specifically what testimony you are referring to.

MR. BUCHWALD: The arrests of the other defendants.

THE COURT: You heard testimony about an arrest of Mr. Christian and testimony about an arrest of Mr. Thomas. You may only use that testimony with respect to your determination as to whether or not the government has proven its case against either Mr. Christian or Mr. Thomas, as the case may be. And you may no use that evidence with respect to the other defendants.

MR. BAUER: As I was saying before I was interrupted, your Honor, the government would like to offer now at this time Government Exhibit 415, pursuant to Federal Rule of Evidence 902, I believe without the objection of defense counsel, which is a transcript dated March 1, 2012, of Glenn Thomas's guilty plea.

THE COURT: Very well. That exhibit will be received.

(Government's Exhibit 415 received in evidence)

MR. BAUER: Permission to read just part of that exhibit aloud now, your Honor.

THE COURT: Very well.

MR. BAUER: I'm pointing to the bottom of page 16

E8inchr3

W. Lahar - cross

1 where the Court asks Mr. Thomas: "Now, Mr. Thomas, can you
2 please tell me in your own words what you did that makes you
3 guilty of the crime to which you are pleading guilty?"

4 Mr. Thomas responded where it says the defendant: "I
5 possessed a firearm with a felony, which I broke the law, you
6 know."

7 The Court asks, "So you were convict of a felony some
8 years back?"

9 I will skip ahead a little bit, sorry.

10 The defendant says, "Yes, sir. I did two years, sir."

11 The Court said, After you were released from prison,
12 some point thereafter did you come to be in possession of a
13 gun?"

14 "THE DEFENDANT: Sir, yes, sir.

15 "THE COURT: Where was that?

16 "THE DEFENDANT: It was on me, sir."

17 His lawyer then asked, "Where?"

18 The defendant says, "Newburgh, New York, sir."

19 The Court then asked, "Approximately when was that?

20 The defendant said, "February 28."

21 The Court asked, "2011?"

22 The defendant said, "2011, sir."

23 The Court asked, "When you did that, Mr. Thomas, did
24 you know that what you were doing was wrong and against the
25 law?"

E8inchr3

W. Lahar - cross

1 The defendant said, "Yes, sir."

2 OK. With that, your Honor, the government calls its
3 next witness, John Maguire.

4 JOHN MAGUIRE,

5 called as a witness by the Government,

6 having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. BAUER:

9 Q. Where do you work?

10 A. I work for the City of Newburgh Police Department.

11 Q. What is your rank with the Newburgh Police Department?

12 A. I am a police officer.

13 Q. How long have you been with the Newburgh PD?

14 A. Approximately ten years.

15 Q. What did you do before working with the Newburgh PD?

16 A. I was a police officer in the Village of Ellenville Police
17 Department, Town of Fallsburg Police Department, and the
18 Village of Liberty Police Department.

19 Q. With Newburgh are you assigned to a particular unit or
20 division?

21 A. I was. I was assigned to the canine unit.

22 Q. How about now? What are you assigned to now?

23 A. I am just a patrolman. My dog passed away on July 1.

24 Q. So July 1 of this year?

25 A. Yes.

E8inchr3

Maguire - direct

1 Q. So I'll focus specifically on 2010.

2 What unit or division were you in then?

3 A. I was part of the City of Newburgh's police canine unit.

4 Q. I take it that means that day you had a canine partner?

5 A. Yes.

6 Q. You said the canine recently passed away?

7 A. Yes.

8 Q. What was the canine's name?

9 A. His name was Ibor.

10 Q. I-b-o-r?

11 A. Yes, sir.

12 Q. How long were you in the canine unit approximately?

13 A. Approximately five years.

14 Q. From when to when?

15 A. From May of 2009 to July of this year.

16 Q. While you were in the canine unit, were you doing patrol
17 type duties as well?

18 A. Yes, sir.

19 Q. Can you explain what your duties and responsibilities were
20 in the canine unit doing patrol?

21 A. Just routine patrol, such as answering calls, vehicle and
22 traffic stuff, criminal stuff.

23 Q. Officer Maguire, are you familiar with a street in Newburgh
24 known as Dubois Street?

25 A. Yes, I am.

E8inchr3

Maguire - direct

1 Q. What part of the city is that?

2 A. That is on the south side -- I'm sorry, the north side of
3 the city.

4 Q. Have you been to Dubois Street and the surrounding area
5 before?

6 A. Yes, I have.

7 Q. In that part of the city, have you participated in any
8 arrests?

9 A. Yes, I have.

10 Q. Approximately how many?

11 A. I would say approximately a hundred.

12 Q. For what types of crimes?

13 A. Everything from open container arrests to prostitution to
14 drugs and guns.

15 Q. Focusing on the guns, approximately how many arrests have
16 you been involved in involving guns?

17 A. In that area?

18 Q. Yes.

19 A. Probably five.

20 Q. How about generally, not just that area?

21 A. In the whole city?

22 Q. Sure.

23 A. In my whole time, I would say at least, at least a hundred.

24 Q. At least a hundred?

25 A. Yeah.

E8inchr3

Maguire - direct

1 Q. Drawing your attention to October 7, 2010, at approximately
2 8:45 p.m., were you working that night --

3 A. Yes, I was.

4 Q. -- that afternoon?

5 What shift were you working?

6 A. I was working the 4 p.m. to midnight tour.

7 Q. Were you working by yourself or with other people?

8 A. I was working with somebody else.

9 Q. Who is that?

10 A. His name is officer Joseph Palermo.

11 Q. At that point you are in the canine unit, right?

12 A. Yes, sir.

13 Q. Was your canine, Ibor, with you that day?

14 A. Yes.

15 Q. Were you in a car or on foot?

16 A. I was in a marked police car.

17 Q. Did you arrest anyone that night?

18 A. Yes, we did.

19 Q. Who was that?

20 A. Raymond Christian.

21 Q. Had you ever seen Raymond Christian prior to that night?

22 A. Yes, I have.

23 Q. Approximately how many times?

24 A. Two to three times maybe.

25 Q. And where?

E8inchr3

Maguire - direct

1 A. Just on routine calls that we were sent to that he was
2 there.

3 Q. But he wasn't the subject of a prior arrest that you did,
4 right?

5 A. No.

6 Q. So on that night where were you when you first came across
7 Raymond Christian?

8 A. We were on Dubois street traveling southbound.

9 Q. What, if anything, did you see?

10 A. We got into the area of 38 Dubois Street and we observed
11 Raymond Christian walking. He walked westbound in front of us
12 across Dubois Street. At that time we noticed he was holding a
13 bulge in his waistband with his left hand. We stopped to
14 interview him. He readjusted the bulge, and at that time you
15 could see a the butt of a handgun.

16 Q. Let me ask you, so it was approximately 8:45 p.m., right?

17 A. I believe so, yes, sir.

18 Q. Was it dark out or light out?

19 A. It was dark out.

20 Q. But you were in a car, right?

21 A. Yes, sir.

22 Q. Were the headlights on?

23 A. Yes, sir.

24 Q. Did you get a good look at Mr. Christian as he walked in
25 front of you?

E8inchr3

Maguire - direct

1 A. Yes, I did.

2 Q. You say you saw a bulge in his left pocket? Is that what
3 you said?

4 A. It was in his waistband. He was holding it with his left
5 hand.

6 Q. I think you said that you got out of the car?

7 A. We started to get out of the car and he fled on foot.

8 Q. When you say we tried to get out of the car, who is we?

9 A. Myself and Joe Palermo.

10 Q. And at that point was Ibor still in the car or out of the
11 car?

12 A. He was still in the car.

13 Q. Before he fled you saw him adjust the gun?

14 A. Yes, sir.

15 Q. And you knew it was a gun because how?

16 A. When he adjusted the bulge in his waistband, you could see
17 the butt of what I believed to be a handgun.

18 Q. So you didn't see the whole gun at that point? You just
19 saw the butt?

20 A. Yes.

21 Q. But then he fled. Where did he flee?

22 A. He fled into the backyards of 38 Dubois Street.

23 Q. Did you follow after him?

24 A. Yes, I did.

25 THE COURT: Did you want to shut off the exhibits.

E8inchr3

Maguire - direct

1 They were flashing.

2 MR. BAUER: Oh, sorry.

3 Q. When you followed after him, did you have Ibor with you?

4 A. No, I did not.

5 Q. So when you were following after him, did you yell any
6 instructions to him?

7 A. I told him stop running, police.

8 Q. And did he stop?

9 A. No, he did not.

10 Q. All right. So what happened after that?

11 A. At that point I turned back around and I went back to get
12 my canine partner, Ibor.

13 Q. And what did Palermo do?

14 A. He continued chasing him.

15 Q. When he was running, Mr. Christian, did you see him do
16 anything?

17 A. He made a motion as if he threw something.

18 Q. Did you see what he threw at that point?

19 A. No, I did not.

20 Q. Did you hear anything?

21 A. I heard a thud. And at that point is when I turned around
22 and went back and got my dog.

23 Q. When you say you heard a thud, a thud of what hitting what?

24 A. It sounded like a hard type object hitting the ground.

25 Q. That's when you went back to get Ibor?

E8inchr3

Maguire - direct

1 A. Yes, I did.

2 Q. Did you then ultimately, after you got Ibor, return to the
3 back of 38 Dubois?

4 A. Yes, he did.

5 Q. What happened after that?

6 A. Officer Palermo had Mr. Christian in custody, and Officer
7 Palermo instructed me that he believed that Mr. Christian threw
8 a handgun.

9 Q. And did Palermo direct you to where he thought the handgun
10 might be?

11 A. Yes, it was in the northeast corner of 38 Dubois Street in
12 the backyard.

13 Q. So what did you do?

14 A. At that point in time I instructed my canine partner to
15 begin an article search. Ibor indicated on the fence area of
16 the northeast corner of 38 Dubois Street, and he wanted to get
17 over the fence.

18 Q. You say an article search. What do you mean?

19 A. An article search, he was trained to search for the
20 freshest human scent on any type of article.

21 Q. Was it Mr. Christian's scent or any scent?

22 A. It could be the fresh est human scent. When I instruct him
23 to do an article search, he's searching for the freshest human
24 scent.

25 Q. You say he indicated. What does that mean?

E8inchr3

Maguire - direct

1 A. He started to whine and started to scratch at the fence
2 area as if he wanted to go over it.

3 Q. So what did you do then?

4 A. At that point we were able to find an opening more west of
5 where Ibor was, and we were able to get him into the backyard
6 of 40 Dubois Street.

7 Q. Then what happened after that?

8 A. Ibor then located a black handgun.

9 Q. What did he do when he located it?

10 A. He picked it up in his mouth.

11 Q. OK. After that what happened?

12 A. I instructed him to put the handgun, which he did, and he
13 just sat there, and I instructed another officer to come over
14 and retrieve the handgun.

15 Q. And what officer was that?

16 A. John Thomas.

17 MR. BAUER: Your Honor, may I approach?

18 THE COURT: You may.

19 Q. I'm showing you what's been marked for identification as
20 Government Exhibits 131A through 131H.

21 Can you take a look at these photographs and tell me
22 if you recognize them.

23 A. This is the handgun that he found in the rear of 40 Dubois
24 Street.

25 Q. There are a number of photographs there, right?

E8inchr3

Maguire - direct

1 A. Yes, there are.

2 Q. Some of them have the gun?

3 A. Yes.

4 Q. But were these the pictures that were taken that night,
5 October 7, 2010?

6 A. Yes.

7 Q. Including pictures of where the gun was located?

8 A. Yes.

9 Q. Did you take those photographs?

10 A. I did not.

11 Q. You were there when they were taken?

12 A. I don't remember.

13 Q. Well, do they accurately reflect the area on Dubois street
14 where the gun was located?

15 A. Yes.

16 MR. BAUER: The government offers government Exhibits
17 131A through H into evidence.

18 MR. STRAZZA: No objection.

19 MR. BUCHWALD: We ask for A limiting instruction with
20 respect to all of these.

21 THE COURT: 131A through 131H will be received.

22 (Government's Exhibits 131A through 131H received in
23 evidence)

24 THE COURT: Ladies and gentlemen, again, this
25 testimony relates solely to Mr. Christian, and you should not

E8inchr3

Maguire - direct

1 consider this in relation to either Mr. Thomas or Mr. Whitaker.

2 MR. BAUER: Judge, can we show the photos to the jury.

3 THE COURT: You may.

4 Q. Officer Maguire, just very quickly, let's run through those
5 photographs.

6 Can you explain what we are looking at. The first one
7 is 131A. What are we looking at there?

8 A. That is the handgun that my police canine found.

9 Q. Is that approximately where he had found it?

10 A. Yes.

11 Q. You said that Ibor picked it up in his mouth, so you
12 obviously had to either instruct him or otherwise put it back
13 down, right?

14 A. Yes.

15 Q. OK. Let's do 131B. This is just a closeup of where it
16 was?

17 A. Yes, sir.

18 Q. 131C, another closeup, correct?

19 A. Yes.

20 Q. 131D, 131E, 131F. What is this here, 131F?

21 A. That is 40 Dubois Street. That is the front house of where
22 my canine partner found the gun.

23 Q. OK. And 131G, what's this?

24 A. That is 38 Dubois Street. That is where he ran into the
25 back of.

E8inchr3

Maguire - direct

1 Q. And looking in the photograph there, can you explain to the
2 jury where he actually ran?

3 A. He ran in between the house and the fence.

4 Q. So that's that little corridor in kind of the left middle
5 bottom of the picture?

6 A. Yes, sir.

7 Q. Was anything else recovered from the back of 38 and 40
8 Dubois Street?

9 A. Officer James Cerrone recovered a loaded magazine in the
10 back of 38 Dubois Street.

11 Q. Did you see where he had located it?

12 A. I don't remember that.

13 Q. Let me show you 131H. What is that a photograph of?

14 A. That is the magazine that he had found.

15 Q. Going back to very briefly, 131D. That's the gun that you
16 found, right?

17 A. Yes, sir.

18 Q. Was there a magazine in it?

19 A. No, there's not.

20 MR. BAUER: If you can just pull up 131A again.

21 Your Honor may I approach?

22 THE COURT: You may.

23 Q. Officer Maguire, I'm showing you what's been marked for
24 identification as Government Exhibits 132, 133 and 134.

25 Starting first with Exhibit 132, do you recognize

E8inchr3

Maguire - direct

1 that?

2 A. Yes, I do.

3 Q. And what is it?

4 A. That is the handgun that my canine partner found in the
5 rear of 40 Dubois Street.

6 Q. Prior to testifying today, did you have an opportunity to
7 look at that gun?

8 A. Yes, I did.

9 Q. Were you able to confirm that it is the same gun?

10 A. Yes.

11 Q. Showing you what's been marked for identification as
12 Government Exhibit 133, do you recognize that?

13 A. Yes, I do.

14 Q. What is that?

15 A. That is the magazine that Officer Cerrone found in the back
16 of 38 Dubois Street.

17 MR. BAUER: OK. You know I'm not going to do 134.

18 The government offers Exhibits 132 and 133 into
19 evidence.

20 MR. STRAZZA: No objection.

21 THE COURT: 132 and 133 will be received.

22 (Government's Exhibits 132 and 133 received in
23 evidence)

24 MR. BAUER: May I show them to the jury, your Honor?

25 THE COURT: You may.

E8inchr3

Maguire - direct

1 MR. BAUER: I have no further questions.

2 Q. I'm sorry. Officer Maguire, one further question.

3 MR. BAUER: Ms. McInerney, if you could pull up
4 Government Exhibit -- it's not in evidence. Sorry.

5 Q. I'm going to show you what's been marked for identification
6 as Government Exhibit 270. Do you recognize the house there?

7 A. That is 38 Dubois Street.

8 Q. Obviously it's a slightly different picture than the
9 earlier one you identified as 38 Dubois?

10 A. Yes, sir.

11 Q. But it's still the same house?

12 A. Yes, sir.

13 MR. BAUER: The government offers Government Exhibit
14 270.

15 THE COURT: Any objection?

16 MR. STRAZZA: No.

17 MS. STAFFORD: No.

18 THE COURT: 270 will be received.

19 (Government's Exhibit 270 received in evidence)

20 MR. BAUER: Thank you, your Honor. I have no further
21 questions.

22 THE COURT: Cross-examination, Mr. Strazza.

23 MR. STRAZZA: Thank you.

24 CROSS EXAMINATION

25 BY MR. STRAZZA:

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Maguire - cross

1 Q. Good afternoon, Officer Maguire.

2 A. Sir.

3 Q. In preparation for your testimony today, you have reviewed
4 the incident reports that were created with respect to the
5 October 7 incident, correct?

6 A. Yes.

7 Q. And so you are aware that at some point in time Detective
8 Roberto Goodman became involved with this incident, right?

9 A. Yes.

10 Q. Specifically, she took a statement from Raymond Christian,
11 right?

12 MR. BAUER: Objection, your Honor.

13 THE COURT: Overruled.

14 A. I believe so, sir.

15 Q. So you are aware that Mr. Christian admitted that he
16 possessed this gun, right?

17 A. I believe so.

18 Q. You are aware that Mr. Christian pled guilty to possesssing
19 this gun, right?

20 A. Yes.

21 MR. STRAZZA: No further questions.

22 THE COURT: Any other cross-examination?

23 MR. GOLTZER: No. Thank you.

24 THE COURT: Any redirect?

25 MR. BAUER: No, your Honor.

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Maguire - cross

1 THE COURT: Sir, you may step down.

2 (Witness excused)

3 MR. NAWADAY: The government calls Joseph Palermo.

4 JOSEPH PALERMO,

5 called as a witness by the Government,

6 having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. NAWADAY:

9 Q. Where do you work?

10 A. The City of Newburgh Police Department.

11 Q. What is your rank there?

12 A. Police officer canine.

13 Q. About how long have you worked for the Newburgh police?

14 A. It's going to be my ninth year, sir.

15 Q. What unit are you currently assigned to?

16 A. I am a canine officer currently.

17 Q. Back in 2010, what unit were you in?

18 A. The anticrime unit.

19 Q. What types of crimes generally did that unit investigate?

20 A. Street-level drug activity, quality of life, and we would
21 also back patrol up on violent calls.

22 Q. Were you working on October 7, 2010?

23 A. Yes, sir, I was.

24 Q. Do you know a person named Raymond Christian?

25 A. Yes, sir, I do.

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Palermo - direct

1 Q. How did you know that person at that time?

2 A. From dealings on the street during going to calls.

3 Q. Did there come a time when you saw Raymond Christian on
4 October 7, 2010?

5 A. Yes, sir.

6 Q. Where were you when you first saw him?

7 A. I was in a marked police vehicle, 136, as a passenger.

8 Q. Who were you with?

9 A. Officer John Maguire.

10 Q. What did you see when you saw Mr. Christian?

11 A. He was coming from west to east crossing the street. He
12 came directly in front of the police vehicle and he had a bulge
13 in his waistband, which he was coddling or holding in his left
14 hand.

15 Q. What street were you on?

16 A. Dubois Street, sir.

17 Q. What happened after you first saw him?

18 A. He looked at the vehicle and pulled it up, and I could see
19 the black portion of what I thought what is a handgun.

20 Q. What did you do, if anything, when you saw that?

21 A. I exited my police vehicle, I screamed police officer, and
22 I gave chase.

23 Q. Where did you chase him?

24 A. He went, if you look at 38 Dubois Street he went to the
25 west driveway, at which point I started catching up to him.

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Palermo - direct

1 With his left arm I could see him throw something black, and he
2 immediately turned to the right, which is then heading south
3 behind the 38 Dubois Street, where he reached a fence and
4 attempted to scale the fence, and that's where I was able to
5 catch up to him.

6 Q. What happened after you caught up to him?

7 A. I detained him and I walked him back. Officer Maguire was
8 coming down the driveway, and I told him I believed he threw a
9 firearm over to the northeast portion if you are looking at 38
10 Dubois Street.

11 MR. NAWADAY: Ms. McInerney, can you please put up
12 Government Exhibit 270 which is in evidence.

13 Q. Do you recognize that?

14 A. Yes, sir.

15 Q. Do you see where you chased Raymond Christian?

16 A. Yes, sir.

17 Q. Can you just describe where that was on Government Exhibit
18 270.

19 A. It is in between the yellow and red building and in between
20 the two fences there down the driveway.

21 Q. What happened after you told Officer Maguire that you
22 thought Raymond Christian had tossed a gun?

23 A. Officer Maguire retrieved his canine and I stayed as a
24 perimeter unit to try to keep any citizens or anybody from
25 coming into the area.

E8inchr3

Palermo - direct

1 Q. Do you know if a gun was recovered?

2 A. Yes, sir.

3 Q. Were you working on July 23, 2010?

4 A. Yes, sir.

5 Q. Did there come a time that day when you saw Jamar Mallory?

6 A. Yes, sir.

7 Q. How did that happen?

8 A. At that time I was in the anticrime unit. I was in an
9 unmarked police vehicle accompanied by three officers, and he
10 had a menacing complaint out.

11 Q. Where did you first see Jamar Mallory that day?

12 A. 20 William Street.

13 Q. What did you do when you saw Jamar Mallory?

14 A. I was a passenger, the driver obviously stopped the
15 vehicle. We exited, confirmed the complaint, and he was
16 arrested on the spot.

17 Q. Where was he arrested?

18 A. He was in the stoop or the doorway area of 20 William
19 Street.

20 Q. Describe that building that he was on the stoop of?

21 A. It's a three-story, brick-style building on the west side
22 of William Street.

23 Q. What did you do after Mallory was arrested?

24 A. We noticed a gentleman sitting on the stairs leading to the
25 second floor just inside the doorway where Mallory was. I went

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Palermo - direct

1 in there to contact him and to interview him to find out if he
2 lived there or if he had any ID.

3 Q. Did you speak with the man on the steps?

4 A. Yes, sir, I did.

5 Q. And did he identify himself?

6 A. He told me his name was Supreme Williams.

7 Q. What happened next?

8 A. We were trying to find ID on him. I handed him off to
9 Officer Pat Kelly, who was also in the street crimes unit with
10 myself, and I started to check the hallway. There's like an
11 electrical box in the hallway, and right on top was a clear
12 baggy with a white rocklike substance inside.

13 MR. DRATEL: Your Honor, objection. Relevance.

14 THE COURT: Overruled.

15 Q. How far away was that baggy with the substance in it from
16 the person on the steps who initially identified himself as
17 Supreme Williams?

18 A. I would say about two arm lengths away.

19 Q. Do you know if that was that person's real name, Supreme
20 Williams?

21 A. I believe his name is James Williams.

22 Q. What happened after you found that baggy?

23 A. Due to my experience, if you find one type of narcotic
24 somewhere, they usually hide it in other places close. So I
25 stepped outside again. There is a mailbox in front of the

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Palermo - direct

1 building, the building's mailbox, and I looked inside and there
2 was a Newport cigarette box empty. And upon looking inside
3 there was another clear plastic back with a white rocklike
4 substance inside of that.

5 Q. What did you do after you found that cigarette box?

6 A. We continued checking the building at this point to see if
7 there was more things we could find. It led us up to the third
8 floor, where we found an open door.

9 Q. What did you do when you got to -- by the way, who was with
10 you at that point?

11 A. Officer Giudice and Officer Patrick Kelly.

12 Q. What did you do when you got to the third floor?

13 A. We made announcements, announcing ourselves as police
14 officers for somebody to come to the door. There was no
15 response.

16 Q. What did you do next?

17 A. We looked into the open door area which led into the
18 kitchen and on the stove there was what appeared to be drug
19 paraphernalia.

20 MR. DRATEL: Your Honor, may I have a continuing
21 relevance objection and an objection under 403.

22 THE COURT: Overruled.

23 MR. DRATEL: Thank you.

24 MR. NAWADAY: Can I have the last response read back.

25 (Record read)

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Palermo - direct

1 Q. What did you do after that?

2 A. We gave a few more announcements. Seeing the drug
3 paraphernalia and also the strong odor of marijuana we entered
4 the apartment.

5 Q. What room did you first enter?

6 A. The kitchen.

7 Q. What did you see in the kitchen, if anything?

8 A. There was burnt marijuana cigarettes, like I said, there
9 was a spoon of white residue and sandwich baggies.

10 Q. What did you do next?

11 A. The next room to the right, I would call it a living room,
12 but there was a bed there, and there was a male laying face
13 down on the bed.

14 Q. What did you do after you saw that there was someone there?

15 A. We again announced ourselves as police officer, shook him,
16 and after a few minutes -- I won't say minutes, seconds, he
17 turned around.

18 Q. And what happened?

19 A. As he came and sat up, right in front of him there was an
20 old cast iron heater and we could see the butt of a firearm
21 there.

22 Q. What happened when you saw the gun?

23 A. That male was detained and we called our supervisor, who
24 began a process for a search warrant.

25 Q. What did you do?

E8inchr3

Palermo - direct

1 A. I stayed with the apartment as officers took the people I
2 spoke about earlier to the station, and we just stood there
3 until the search warrant was ready.

4 Q. Was a search conducted?

5 A. Yes, sir.

6 Q. Do you know what happened to James Williams?

7 A. No, sir. At that point I do not.

8 MR. NAWADAY: No further questions.

9 THE COURT: Cross-examination.

10 MS. STAFFORD: No.

11 MR. STRAZZA: No questions.

12 MR. DRATEL: Nothing, your Honor. Thank you.

13 THE COURT: You may step down.

14 THE WITNESS: Thank you, sir.

15 (Witness excused)

16 MR. BUCHWALD: May we have a limiting instruction,
17 Judge.

18 THE COURT: Concerning whom?

19 MR. BUCHWALD: The arrest, who was arrested at that
20 time.

21 MR. DRATEL: Mr. Christian.

22 THE COURT: The first part of Officer Palermo's
23 testimony concerned the arrest of Raymond Christian. Again,
24 you may only consider that in your determination as to whether
25 or not government has proved its case against him, and you may

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Palermo - direct

1 not consider it against Mr. Whitaker or Mr. Thomas in any way.

2 OK.

3 Do you have another witness or shall we take our lunch
4 break?

5 MR. NAWADAY: Your Honor, the next witness will be
6 lengthy, so it might make sense to do that.

7 THE COURT: Let's do that. Let's take our lunch break
8 now it a little early. So please be back no later than 1:45 in
9 the jury room. Until then don't discuss the case.

10 (Continued on next page)

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E8inchr3

Palermo - direct

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2 (Jury not present)

3 THE COURT: Mr. Buchwald.

4 MR. BUCHWALD: Your Honor, with respect to this most
5 recent testimony about L-1 and some kind of seizure involving
6 L-1, Mr. Williams, we would move to strike it as irrelevant
7 having nothing to do with the charges against these defendants
8 in this case.

9 MR. NAWADAY: Your Honor, all that evidence from the
10 search was already admitted. It is evidence of the
11 relationship between the defendants and L-1, who is part of the
12 conspiracy. It shows L-1 was a drug dealer. So it is wholly
13 relevant to the facts at issue in this case.

14 THE COURT: You said it was already admitted?

15 MR. NAWADAY: Yes, your Honor.

16 THE COURT: OK.

17 MR. BUCHWALD: I think it was subject to connection
18 before.

19 MR. NAWADAY: I think the connection, your Honor, is
20 you have heard and the jury has heard extensive testimony about
21 L-1's participation in the robbery of a stash house, his
22 relationship with these defendants. The fact that L-1 was a
23 drug dealer was found with drugs, was there at 38 Dubois I
24 think is wholly relevant and does connect this evidence to the
25 charged conspiracy.

E8inchr3

Palermo - direct

1 MR. BUCHWALD: This is evidence of July 2010. Our
2 client had been in jail for a year and a half and remained in
3 jail for another three months. I see absolutely no connection
4 to our client whatsoever.

5 THE COURT: I disagree. I think it is relevant both
6 to the relationship between these defendants and Mr. Williams
7 as well as to the actual conspiracy charged in the indictment.

8 So that evidence will be admitted over the defense
9 objection.

10 Anything else?

11 MR. NAWADAY: Not for the government.

12 THE COURT: Who is the next witness?

13 MR. BAUER: Danielle Williams.

14 THE COURT: OK.

15 MR. BAUER: Judge, we are going to start at 1:50 then?

16 THE COURT: I'm sorry?

17 MR. BAUER: You asked the jury to be back at 1:45?

18 THE COURT: 1:45, yes.

19 (Luncheon recess)

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AFTERNOON SESSION

1:45 p.m.

(Trial resumed; jury not present)

MR. STRAZZA: Your Honor, before you bring the jury out we would like to make an application.

THE COURT: The jury is ready so what is it that you wanted to say?

MR. STRAZZA: With respect to the testimony --

THE COURT: Can you please keep your voice up.

10 MR. STRAZZA: With respect to the testimony of
11 Danielle Williams, we have an application to preclude the
12 government from going into an incident where they alleged or --
13 where they alleged or at least the 3500 materials indicates
14 that Mr. Christian attempted to extort her. It's our position
15 that the prejudicial effect outweighs the probative value and
16 it's not part of the crimes that Mr. Christian is charged with.

17 THE COURT: Do you intend to elicit such testimony,
18 Mr. Nawaday or Mr. Bauer?

19 MR. NAWADAY: We do, your Honor. It was our
20 understanding that your Honor had ruled on this. This was one
21 of the incidents that was part of our motion in limine. And
22 the relevance is that during the conspiracy period Ms. Williams
23 saw Mr. Christian with a gun and he had that gun when he was in
24 the presence of Mr. Thomas.

THE COURT: I'm sorry but I don't recall extortion.

E8i9chr4

1 Did I rule on any attempted extortion?

2 MR. NAWADAY: Yes, your Honor. It's page three of the
3 government's July 31, 2014 submission to the Court. It's
4 incident No. 10 which says Christian pulled a gun on a
5 cooperating witness, who is Danielle Williams, in attempt to
6 extort Danielle Williams because of a dispute regarding her son
7 who sold drugs. After Christian -- after Danielle Williams
8 told Christian to put the gun away, he handed the gun to
9 another person and Mr. Thomas was present when that happened.

10 THE COURT: Okay. So I've ruled on it.

11 Are we ready? The jury is ready.

12 MR. NAWADAY: Bring out the witness, your Honor?

13 THE COURT: Yes.

14 MR. BUCHWALD: We join in the motion to keep that out.

15 THE COURT: Okay. So noted.

16 You may be seated for now.

17 (Continued on next page)

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E8i9chr4

1 (Jury present)

2 THE COURT: Everyone please be seated.

3 Will the government call its next witness.

4 MR. NAWADAY: The government calls Danielle Williams.

5 THE COURT: Ms. Williams please stand and face the
6 court deputy.

7 Please be seated. Bring your seat forward. I want
8 you to speak directly into the microphone and please begin by
9 stating your full name and spelling your first and last name
10 for the record call.

11 DANIELLE WILLIAMS,

12 called as a witness by the Government,

13 having been duly sworn, testified as follows:

14 THE COURT: Thank you.

15 Mr. Nawaday.

16 DIRECT EXAMINATION

17 BY MR. NAWADAY:

18 Q. How old are you?

19 A. 39.

20 Q. Are you married?

21 A. Yes.

22 Q. Do you have any children?

23 A. Yes.

24 Q. How many?

25 A. Three.

E8i9chr4

D. Williams - direct

1 Q. What are their names and nicknames?

2 A. Gerard Perkins. His nickname is Smoke. Marcus Williams,
3 Junior and Joseph Williams.

4 Q. Have you committed crimes in your life?

5 A. Yes, I have.

6 Q. What kind of crimes?

7 A. I've sold drugs. I've sold guns. I've transported guns.
8 I have an attempted murder charge. Murder charges. Narcotics.

9 Q. Have you ever pleaded guilty to participating in a
10 racketeering conspiracy?

11 A. Yes, I have.

12 Q. What did that involve?

13 A. I'm sorry?

14 Q. What did that involve, that racketeering conspiracy?

15 A. I was involved with a gang and I received a racketeering
16 charge.

17 Q. What gang was that?

18 A. The Bloods.

19 Q. Have you committed any robberies?

20 A. Yes, I have.

21 Q. What robberies have you committed?

22 A. There was a robbery at 270 First Street. It was my sister
23 who was actually robbed.

24 Q. And you participated in that robbery?

25 A. Yes, I did.

E8i9chr4

D. Williams - direct

1 Q. Where did you grow up?

2 A. Newburgh, New York.

3 Q. In 2008 through 2010 where did you live?

4 A. Newburgh, New York.

5 Q. And what neighborhood of Newburgh did you live in during
6 that time period?

7 A. The City of Newburgh? It's up by the high school.

8 Q. What neighborhood did you live in? What street?

9 A. Third Street. Third and Valley.

10 Q. Are you familiar with Chambers Street, Dubois Street, and
11 Lander Street, Newburgh?

12 A. Very.

13 Q. How are you familiar with them?

14 A. I've lived there my entire life. And the time period that
15 you just mentioned, I hung out there all day, everyday.

16 Q. I want you to look around the courtroom and tell me if you
17 recognize anyone you knew from Newburgh.

18 A. Yes.

19 Q. Who do you recognize?

20 A. Reckless.

21 Q. Please describe an article of clothing that Reckless is
22 wearing?

23 A. He has a white shirt on.

24 Q. And describe where he's sitting.

25 A. (No response).

E8i9chr4

D. Williams - direct

1 Q. In the courtroom.

2 A. At the first table. Right there.

3 MR. NAWADAY: May the record reflect that the witness
4 has identified the defendant Raymond Christian?

5 THE COURT: The record will so reflect.

6 Q. Do you know Reckless by any other names?

7 A. Years ago Ashy Larry.

8 Q. That's A-S-H-Y Larry?

9 A. I guess, yes.

10 Q. Do you know Reckless's real name?

11 A. Raymond Christian.

12 Q. Anyone else in the courtroom you recognize?

13 A. Bow Wow.

14 Q. Please describe an article of clothing that Bow Wow is
15 wearing and where Bow Wow is in the courtroom.

16 A. I can't see him. Can I stand up?

17 THE COURT: Yes.

18 THE WITNESS: He has a light blue shirt on. He's
19 sitting in the corner.

20 MR. GOLTZER: Forgive me, Judge, but if she couldn't
21 see him I move to strike the identification she made.

22 THE COURT: Overruled.

23 MR. NAWADAY: May the record reflect that the witness
24 has identified Tyrell Whitaker?

25 THE COURT: It will so reflect.

E8i9chr4

D. Williams - direct

1 Q. Did you know Bow Wow by any other names?

2 A. No.

3 Q. Is there anyone else in the courtroom you recognize?

4 A. Gucci.

5 Q. Please scribe an article of clothing that Gucci is wearing
6 and where Gucci is in the courtroom.

7 A. He's sitting at the table. He has a gray shirt on. With
8 glasses.

9 MR. NAWADAY: May the record reflect that the witness
10 has identified Glenn Thomas?

11 THE COURT: The record will so reflect.

12 Q. Did you know Gucci by any other names?

13 A. No.

14 Q. I want to talk about your background. Are you a United
15 States citizen?

16 A. Yes.

17 Q. About how far did you get in school?

18 A. Twelfth grade.

19 Q. Where do you currently live?

20 A. MCC New York.

21 Q. Is that a federal prison?

22 A. Yes, it is.

23 Q. About how long have you been in federal prison?

24 A. Thirty-five months.

25 Q. What led you to be at the MCC?

E8i9chr4

D. Williams - direct

1 A. I was arrested.

2 Q. What were you arrested for?

3 A. Racketeering. Narcotics conspiracy. Hobbs Act robbery.

4 Attempted murder on a Latin king gang member. Firearm murder.

5 Q. Before your arrest was there a time when you were actively
6 cooperating with the government?

7 A. Yes.

8 Q. And around when was that? Around what years?

9 A. 2009, I think.

10 Q. And what led to you actively cooperating with the
11 government?

12 A. I was arrested for attempted murder on a Latin king gang
13 member.

14 Q. And what did you do as part of your active cooperation back
15 then?

16 A. They asked me questions. I told them the answers to the
17 questions that I knew. If something happened, the officer
18 would text me and ask me did I know. If I knew, I told him.
19 If I didn't know, I couldn't tell him.

20 Q. Why were you doing that at that time?

21 A. To not have to go to prison.

22 Q. So you were doing this while you were out on the streets of
23 Newburgh?

24 A. Yes.

25 Q. Who was your primary contact at that time?

E8i9chr4

D. Williams - direct

1 A. Steve Bunt.

2 Q. Who is that?

3 A. He's an officer.

4 Q. Of Newburgh?

5 A. I assume. I don't know if he's Newburgh. I always went to
6 see him in Goshen.

7 Q. And during that period of time had you told the government
8 about all your crimes at that point?

9 A. In the beginning, yes.

10 Q. At that time were you -- while you were cooperating were
11 you completely honest about all of your activities?

12 MR. BUCHWALD: Could we have what time that time is?

13 THE COURT: Mr. Nawaday.

14 Q. We're speaking about the time you were actively cooperating
15 while out on the streets of Newburgh.

16 A. Okay. What's the question?

17 Q. The question is at that time were you completely honest
18 about all your activities of what you were doing in Newburgh
19 while providing information to the government?

20 A. No.

21 Q. Did there come a time when you stopped providing
22 information to the government?

23 A. Yes.

24 Q. And how did that come about?

25 A. My boyfriend at the time was involved in a murder and I got

E8i9chr4

D. Williams - direct

1 rid of clothes that I assumed he used for the murder, and the
2 prosecutor said she wasn't going to talk to me anymore.

3 Q. But what happened?

4 A. I never met with them again.

5 Q. Did there come a time when you were arrested?

6 A. Yep. They contacted me in May and told me that they wanted
7 me to --

8 MR. BUCHWALD: Could we get a year, your Honor?

9 THE COURT: What year? Do you recall May of what
10 year?

11 THE WITNESS: 2011.

12 Q. So what happened?

13 A. I didn't talk to anyone. In September 2011 I was arrested.

14 Q. Did you ever self-surrender?

15 A. No.

16 Q. After your arrest in September 2011 did you still try to
17 cooperate after that point?

18 A. Yes.

19 Q. And what did that involve?

20 A. Telling everything that I've ever done.

21 Q. Telling who?

22 A. Telling the government. Can't commit anymore crimes.

23 Q. Who did you meet with, if anyone, to try to cooperate?

24 A. Mr. Maimin.

25 Q. Who is Mr. Maimin?

E8i9chr4

D. Williams - direct

1 A. The AUSA.

2 Q. During your meetings was there anyone else present besides
3 Mr. Maimin?

4 A. My lawyer was present. There were agents present.

5 Q. And what did you have to talk about in those meetings?

6 A. Everything I've ever done. Everything I know was done or I
7 was involved with, around.

8 Q. And what was your understanding what you had to do to get a
9 cooperation agreement?

10 A. Not commit anymore crimes and tell the truth.

11 Q. Did there come a time when you eventually pleaded guilty to
12 your crimes?

13 A. I did.

14 Q. And before that point about how many meetings had you had
15 with the government?

16 A. I'm unsure. I don't know how many. Many.

17 Q. When you pled guilty was that to a cooperation agreement?

18 A. Yes, it was.

19 Q. I'm going to show you what's been marked for identification
20 as Government Exhibit 424.

21 MR. NAWADAY: May I approach, your Honor?

22 THE COURT: You may.

23 Q. Ma'am, please take a look at that, tell me if you recognize
24 it.

25 A. Yes.

E8i9chr4

D. Williams - direct

1 Q. What does it appear to be?

2 A. My cooperation agreement.

3 Q. There are signatures on the last page. Do you recognize
4 any of them?

5 A. Yeah, mine and my lawyer's.

6 MR. NAWADAY: The government offers Government Exhibit
7 424.

8 THE COURT: Any objection?

9 MR. STRAZZA: No objection.

10 THE COURT: 424 will be received.

11 (Government's Exhibit 424 received in evidence)

12 Q. What's your understanding of what you have to do under your
13 agreement?

14 A. Not commit anymore crimes.

15 Q. You have to testify if called upon?

16 A. Yes, if I'm -- if I need -- if any of the AUSAs want to
17 speak to me, yes, I have to speak to them, I have to testify.

18 Q. Do you have to attend meetings if asked?

19 A. I do, yes.

20 Q. Are you allowed to lie?

21 A. Absolutely not.

22 Q. About how many people have you told the government you
23 committed crimes with?

24 A. I can't -- I don't know a number. Many.

25 Q. More than ten?

E8i9chr4

D. Williams - direct

1 A. Yeah.

2 Q. Do some of those people include members of gangs you were
3 associated with?

4 A. I'm sorry?

5 Q. Were some of those people members of gangs you were
6 associated with?

7 A. A majority of them were, yes.

8 Q. Would you have to testify against them if called upon?

9 A. I didn't hear you.

10 Q. Would you have to testify against those people if asked to?

11 A. Yes, I would.

12 Q. Did you consider some of those people friends?

13 A. At the time I did, yes.

14 Q. What's your understanding of what the government has to do
15 under your agreement if you do what you're supposed to do?

16 A. Write a letter to the judge letting the judge know
17 everything I've done wrong and everything I've done to assist
18 the government.

19 Q. Is that called a 5K letter?

20 A. Yes.

21 Q. And without that 5K letter what's your understanding of the
22 maximum time of imprisonment that you are facing?

23 A. The maximum time?

24 Q. Yes.

25 A. Is life.

E8i9chr4

D. Williams - direct

1 Q. And without your 5K letter is there a mandatory minimum
2 time that you're facing?

3 A. My mandatory minimums are 80 years.

4 Q. And if you get that 5K letter what's the lowest sentence
5 you could get?

6 A. Time served.

7 Q. And even if you get that 5K letter what's the highest
8 sentence you could get?

9 A. Life.

10 Q. What sentence are you hoping to get?

11 A. Time served.

12 Q. Will that 5K letter, as far as you understand, recommend a
13 specific sentence?

14 A. No.

15 Q. Does your sentence, as far as you understand, depend on the
16 outcome of this trial?

17 A. No.

18 Q. What's your understanding of what happens if you lie under
19 this agreement?

20 A. You lose your cooperation agreement.

21 Q. You get your 5K letter?

22 A. No.

23 Q. And what's the mandatory minimum if you don't get your 5K
24 letter?

25 A. Eighty years.

E8i9chr4

D. Williams - direct

1 Q. What's your understanding of what happens if you tell the
2 truth on the stand today?

3 A. (No response).

4 Q. Do you get your letter?

5 A. Yes.

6 Q. Has anyone told you what sentence you'll get?

7 A. No.

8 Q. And Ms. Williams, have you testified before pursuant to
9 your agreement?

10 A. I have, yes.

11 Q. And against whom?

12 A. Anthony Boykin and Justin Simmons.

13 Q. Did they have nicknames?

14 A. Double O is Anthony Boykin. And Justo is Justin Simmons.

15 Q. I want to talk about some of the crimes you've committed.
16 You said you sold drugs?

17 A. I did.

18 Q. What drugs did you sell and when did you sell them?

19 A. I sold crack back in 1997, '98, '99 and then from 2005
20 maybe, 2004, 2005, that area until I came to jail I sold
21 prescription pills.

22 Q. Now with the crack were you ever arrested and convicted for
23 that?

24 A. I was, yes.

25 Q. When were you convicted for selling crack?

E8i9chr4

D. Williams - direct

1 A. 1999.

2 Q. Was that after a guilty plea?

3 A. I pled guilty, yes.

4 Q. What were you sentenced to?

5 A. I was sentenced to three years probation.

6 Q. And when you were selling crack back then were you doing
7 that alone or with others?

8 A. I was doing it with my husband.

9 Q. Who was that?

10 A. Marcus Williams.

11 Q. And you said you were selling prescription drugs?

12 A. Yes.

13 Q. How did that work?

14 A. Back in 2004 or 2005 I was seeing a doctor who prescribed
15 the pills to me so I sold the pills. My sister was then
16 diagnosed with cancer. She started getting the pills. I sold
17 the pills. Over time, as the years went by, I stole the script
18 pad from the doctor's office and filled it out myself and sold
19 the pills.

20 Q. Now you said you also pleaded guilty to a racketeering
21 conspiracy?

22 A. I did.

23 Q. That involved the Bloods?

24 A. It did.

25 Q. What did you actually do as part of that conspiracy?

E8i9chr4

D. Williams - direct

1 A. I took them to transport guns. I took them to transport
2 drugs. I've took them to robberies. I took them to shootings.

3 Q. And around what time period were you doing that?

4 A. 2009, 2010.

5 Q. Were you paid for that?

6 A. No.

7 Q. Why did you do it?

8 A. I wanted to.

9 MR. STRAZZA: I'm sorry. I didn't hear that.

10 THE COURT: Madam court reporter.

11 (Record read)

12 Q. By the way where were you doing this, what town?

13 A. The City of Newburgh.

14 Q. Did you ever send messages for Bloods in prison?

15 A. A lot, yes.

16 Q. Around when did you do that?

17 A. 2008, 2009, 2010 and 2011.

18 Q. You said you had pled guilty to conspiracy to commit
19 murder?

20 A. I did.

21 Q. And what was that about?

22 A. I was -- I was involved in a shooting that happened on
23 Lander Street in the City of Newburgh.

24 What question did you ask me? I'm sorry.

25 Q. Conspiracy to commit murder I think you said of a Latin

E8i9chr4

D. Williams - direct

1 King?

2 A. That was attempted murder.

3 Q. So what led to that?

4 A. I was in the car. Me and another girl. And two Bloods
5 were in the car. They got out of the car and they started
6 shooting at the Latin Kings. I was there.

7 Q. Why were you there?

8 A. Because that's where I hung out everyday.

9 Q. Were you assisting them?

10 A. I did.

11 Q. You said there was a robbery of your sister?

12 A. There was.

13 Q. How did that come about?

14 A. My niece called me and told me her father had a large
15 amount of money and drugs.

16 I went and picked my niece up. We went to a friend of
17 her's. We asked him did he -- would he go in there and rob
18 them. He said yes. We went around the corner. We were on
19 Chambers Street in Newburgh at the time. We went around the
20 corner on Lander Street. I seen a guy named Fuzzy. I asked
21 him would he go. He said yes. I took them both to get the
22 guns. And I took them to the apartment to where my sister and
23 her husband lived.

24 Q. What happened after you did that?

25 A. I took them to the apartment. I dropped them off in front.

E8i9chr4

D. Williams - direct

I went around the corner and waited for them. They went in the apartment. We told them where the stuff was -- where the stuff was supposed to be. It wasn't there. They came out with nothing like five minutes later.

Q. Do you know if guns were used?

A. They were.

Q. About how old was your niece at the time?

A. Ten.

Q. How old was your sister at the time?

A. 33, 34. I'm not sure. I can't --

Q. Did you get anything out of that robbery?

A. No.

Q. Why did you do it?

A. I wanted to, obviously.

Q. I'm going to show you what's already in evidence as Government Exhibit 218.

MR. NAWADAY: Ms. McInerney can you please put that up.

Ms. Williams, it should appear on your screen.

Q. Do you recognize that?

A. Yes.

Q. Who is that?

A. Fuzzy.

Q. Is that one of the people you got to rob your sister?

A. It is.

E8i9chr4

D. Williams - direct

1 Q. Have you ever committed any crimes with family members?

2 A. (No response).

3 Q. Of yours?

4 A. I've sold drugs with my sister, with my brothers before,
5 with my son.

6 Q. And which son was that?

7 A. That's my oldest son Gerard Perkins. Smoke is his
8 nickname.

9 Q. Do you know what the term 550 means?

10 A. I'm sorry.

11 Q. 550?

12 A. Yeah. It's a Blood slang that you're neutral.

13 Q. What do you mean by that?

14 A. You're not Blood but you're also not an enemy to them
15 either. You're somebody who is cordial with the gang.

16 Q. Were you 550?

17 A. Yes.

18 Q. I want to turn to some of the people you identified.

19 Starting with Reckless. How did you first meet
20 Reckless?

21 A. I know Reckless's entire family, his mother, his aunts, his
22 uncles, his grandmother, his cousins. I've known him since
23 he's been a little boy.

24 Q. Do you know if he was a member of any gangs?

25 A. Years ago they were in a little gang that was called Ashy

E8i9chr4

D. Williams - direct

1 Bandits, the boys were, the younger boys were. Before I came
2 to jail he was a Blood.

3 Q. You said you know Bow Wow?

4 A. I know Bow Wow.

5 Q. How do you know him?

6 A. I met Bow Wow through my oldest son Smoke. Him and my son
7 used to hang out together.

8 Q. Do you know if he was a member of any gang when you knew
9 him?

10 A. I'm sorry.

11 Q. Do you know if he was a member of any gang?

12 A. I don't.

13 Q. You said you knew Gucci?

14 A. Yes.

15 Q. How do you know Gucci?

16 A. I also know Gucci's sisters. I know his mother. I know
17 him from the streets, you know, in the City of Newburgh.

18 Q. Who is his sister?

19 A. He has a sister named Princess and he has a sister named
20 Cayla.

21 Q. Do you know if Princess was a member of any gang?

22 A. She's a Blood.

23 Q. Do you know if Gucci was a member of any gang?

24 A. Gucci was a Crip for some time and when I came to jail he
25 was a Blood.

E8i9chr4

D. Williams - direct

1 MR. NAWADAY: Ms. McInerney can you please scroll
2 through some pictures that are already in evidence.

3 Q. Ms. Williams, you'll see these come up on your screen I
4 just ask you if you recognize them and who they are.

5 Starting with Government Exhibit 204. Do you know who
6 that is?

7 A. L-1.

8 Q. Did you know L-1 by any other names?

9 A. His real name.

10 Q. What was his real name?

11 A. James Williams.

12 Q. Do you know if he was a member of any gang?

13 A. He was a Blood, yes.

14 Q. Do you know what a set is?

15 A. Do I know what a set is? Yes.

16 Q. What is a set?

17 A. It's kind of like a branch-off to what -- there's a whole
18 bunch of Bloods and you're under a different name. It's just
19 you can be Shine. You can be Stone. You can be -- there's a
20 whole bunch of different names. It's just one that you're
21 under. Whoever is over you, that's who you're under, that's
22 what you are.

23 Q. Do you know what set L-1 was a part of?

24 A. I don't know a hundred percent sure, no.

25 MR. NAWADAY: Ms. McInerney can you please put up

E8i9chr4

D. Williams - direct

1 Government Exhibit 206.

2 Q. Do you know who that is?

3 A. Kev Gotti.

4 Q. Did you know Kev Gotti by any other names?

5 A. Kevin Burden.

6 Q. Do you know if Kev Gotti was a member of any gangs?

7 A. He was a Blood.

8 Q. Have you ever seen him with any guns?

9 A. I've never seen him with a gun.

10 Q. Do you know if he sold drugs?

11 A. I have seen him sell drugs.

12 Q. What drugs?

13 A. Crack.

14 Q. And where did you see him sell drugs?

15 A. In the City of Newburgh, on Lander Street, Chambers Street,
16 First Street.

17 Q. By the way, when you saw him selling drugs what were you
18 doing out there?

19 A. I hung out there all day, everyday; all night, every night.

20 Q. Hang out there by yourself or with another person?

21 A. No. I hung -- there was other females that I hung out with
22 and I hung out with any -- I hung out with a bunch of Bloods
23 all the time.

24 Q. Who was the other female?

25 A. Jamie Kinsley.

E8i9chr4

D. Williams - direct

1 Q. Are you related to her?

2 A. We are cousins, yes.

3 MR. NAWADAY: Ms. McInerney if you can please pull up
4 Government Exhibit 205.

5 Q. Do you know who that is?

6 A. Bash.

7 Q. Did you know Bash by any other names?

8 A. No.

9 Q. Do you know if Bash was in any gangs?

10 A. He was a Blood.

11 MR. NAWADAY: Government Exhibit 212.

12 Q. Do you know who that is?

13 A. Quick.

14 Q. Did you know Quick by any other names?

15 A. Quran Nichols.

16 Q. Do you know if he was a member of any gangs?

17 A. He was a Blood also.

18 MR. NAWADAY: Government Exhibit 209.

19 Q. Do you know who that was -- is?

20 A. Tyrik Leggette.

21 Q. Did he have any nicknames?

22 A. Freaky.

23 Q. How do you know Freaky?

24 A. I also know his mom, his aunts, his sister, his entire
25 family. I've known him since he's been a little boy.

E8i9chr4

D. Williams - direct

1 Q. Do you know if he was a member of any gangs?

2 A. He was a Blood.

3 MR. NAWADAY: Then Government Exhibit 216.

4 Q. Do you know who that is?

5 A. Anthony Baynes.

6 Q. How do you know him?

7 A. I know his mom. I know his dad. I know his stepmother.

8 I've known him since he's been a little boy. I've watched him
9 grow up.

10 Q. Do you know him by any other names?

11 A. Little Tony.

12 Q. Do you know if he was a member of any other gangs?

13 A. I don't.

14 Q. You said you transported drugs or drove drug dealers around
15 in Newburgh; is that right?

16 A. Many occasions, yes.

17 Q. Are you familiar with the streets where crack is sold in
18 Newburgh?

19 A. Yes.

20 Q. What streets are those?

21 A. Almost every street in the City of Newburgh.

22 Q. Particular street names?

23 A. Lander Street, Chambers Street, South Street, Third Street,
24 First Street, Broadway, South Miller, Lutheran Street.

25 Q. How about Dubois Street?

E8i9chr4

D. Williams - direct

1 A. Dubois Street.

2 Q. Do you know if Reckless sold drugs?

3 A. I have seen Reckless sell drugs before, yes.

4 Q. Please tell the jurors the times you remember seeing
5 Reckless sell drugs and what you saw.

6 A. On one occasion I seen Reckless sell drugs on Chambers
7 Street in a hallway. He was in the hallway to the right of me.
8 I was to the left of him. He was serving the crackhead. He
9 took the crack from out of the back of his pants. He sold the
10 crackhead the crack right in front of me in the hallway.

11 Q. About how far away were you from him when you saw that?

12 A. A foot at the most.

13 Q. What were you doing there, by the way?

14 A. Hanging out there.

15 Q. Around when was this?

16 A. 2009, 2010. I'm unsure exactly.

17 Q. Do you know who he sold crack to on this occasion?

18 A. To a guy Timmy.

19 Q. Did Timmy have any other names?

20 A. I don't know him -- I just know him as a crackhead and
21 that's his name.

22 Q. And about how much crack or money was exchanged, if you
23 know?

24 A. Not much. It was a small amount.

25 Q. When do you mean by "small amount"?

E8i9chr4

D. Williams - direct

1 A. Like a -- smaller than a penny. A small amount.

2 Q. Do you remember how much money was exchanged?

3 A. Not exactly, no.

4 Q. Any other occasions you've seen Reckless sell crack?

5 A. On Lutheran Street in a Bruman house. He was in a
6 building. I went there one day to see if somebody was there.
7 And he was there serving a lady crackhead in the building.

8 Q. And what did you actually see?

9 A. He had the crack in his pocket and he took the crack out of
10 his front pocket and he served her.

11 Q. Do you know who he served on that occasion?

12 A. Pussy is her name. That's all I know her as.

13 Q. About how much money or crack was exchanged, if you know?

14 A. It was a small amount. It wasn't much.

15 Q. Any other occasions you've seen Reckless serve crack
16 customer -- oh, by -- when was the occasion you saw Reckless
17 serving Pussy?

18 A. 2009, 2010. I'm unsure.

19 Q. Any other occasions you've seen Reckless serving a crack
20 cocaine customer?

21 A. South Miller and Broadway in Newburgh. I watched him
22 serving a crackhead lady. Her name is Brooklyn.

23 Q. And what did you see and around when was this?

24 A. It was 2009, 2010 timeframe. The drugs were in his -- the
25 back of him again. He took the drugs out. He served her. She

E8i9chr4

D. Williams - direct

1 gave him the money.

2 Q. What do you mean "the back of him"?

3 A. Like in their butt crack.

4 Q. About how much was exchanged?

5 A. I don't know exactly.

6 Q. Have you ever seen Reckless work with anyone else during a
7 drug sale?

8 A. On Dubois Street one day L-1 was standing on the porch and
9 L-1 told Reckless something in regards to a drug sale on Dubois
10 Street.

11 Q. What do you remember happening?

12 A. L-1 told the customer to get it from Reckless, for Reckless
13 to serve the customer.

14 Q. Around when was this?

15 A. 2010 maybe.

16 Q. Have you ever seen Reckless work with Bow Wow in a drug
17 sale?

18 A. On Dubois Street in front of the same building.

19 Q. What do you remember seeing?

20 A. The crackhead was talking to Reckless first and the
21 crackhead went to Bow Wow after he spoke to Reckless.

22 MS. STAFFORD: Your Honor, can we have a timeframe?

23 BY MR. NAWADAY:

24 Q. Around when was this, Ms. Williams?

25 A. 2009, 2010. I'm unsure exactly.

E8i9chr4

D. Williams - direct

1 Q. Where was this on Dubois, if you remember?

2 A. By Dubois and Van Ness Street.

3 Q. Where were you when you saw Reckless direct the crackhead
4 to Bow Wow?

5 A. Sitting on the porch two doors over.

6 Q. On Dubois Street?

7 A. Yes.

8 Q. Whose house were you at at the time?

9 A. My boyfriend at the time, his grandmother's house.

10 Q. And who was your boyfriend at the time?

11 A. Marco Boykin.

12 Q. Do you know if Marco Boykin is related to Laquavious
13 Boykin?

14 A. They have the same last names. They're not related.

15 Q. What kind of relationship did you have with Marco Boykin at
16 the time?

17 A. At the time of the day I was at his grandmother's house?

18 Q. Yes.

19 A. I don't know -- I don't understand what you want to know,
20 what you're asking me.

21 Q. Was he your boyfriend?

22 A. He was my boyfriend, yes.

23 MR. NAWADAY: Ms. McInerney if you can please pull up
24 Government Exhibit 270.

25 Q. Ms. Williams, you're going to see something on your screen.

E8i9chr4

D. Williams - direct

1 Do you recognize that?

2 A. That's the house on Dubois Street.

3 Q. What house?

4 A. That L-1 and Reckless and Little Tony, Bow Wow, Tyrik,
5 Quick, all of them used to hang out there. That's the house
6 that they were in front of the day I seen them make the drug
7 sales.

8 Q. In addition to the time on Dubois Street that you saw Bow
9 Wow serve a customer, have you seen him sell crack on any other
10 occasions?

11 A. He sold crack out of my house before.

12 Q. Out of your house?

13 A. Yes.

14 Q. Where was your house?

15 A. 433 Third Street.

16 Q. In Newburgh?

17 A. Yes.

18 Q. How often did you see Bow Wow deal and sell from your
19 house?

20 A. It wasn't very often. He came there to play the game with
21 my son. And if he was is there and somebody called his phone,
22 they came there so he can serve them.

23 Q. What do you remember actually seeing him do while at your
24 house relating to drug sales?

25 A. On one or two occasions he -- somebody called him, he told

E8i9chr4

D. Williams - direct

1 him to meet them around the corner on Valley Avenue, which is
2 around the block.

3 On another occasion there was a white man on my porch
4 that Bow Wow served on my porch.

5 Q. And have you ever seen Bow Wow with crack in your house?

6 A. Yes.

7 Q. Besides Bow Wow, anyone else -- did you let anyone else
8 sell from your house?

9 A. Yes.

10 Q. Who?

11 A. Kev Gotti made sales out of my house. Quick made sales out
12 of my house. Bash had someone meet him around the corner
13 before -- well a few different times Bash had somebody meet him
14 around the corner.

15 Q. What time period was this when Bow Wow, Gotti, and Bash
16 were selling out of your house?

17 A. I don't know -- I can't remember if it was the end of 2009,
18 beginning of 2010. It was in that timeframe.

19 Q. Do you know what re-upping is?

20 A. I do.

21 Q. What is that?

22 A. When you're a drug dealer and you don't have anymore drugs
23 you have to go to a drug dealer who is higher than you to go
24 buy more drugs for you to sell.

25 Q. Do you know who Bow Wow re-upped from in 2009 and 2010?

E8i9chr4

D. Williams - direct

1 A. L-1.

2 Q. How do you know that?

3 A. They were having a conversation in my house one day about
4 it and he said that he needed to go to L-1 to get more drugs.

5 Q. Who was having this conversation?

6 A. My son was there. Bow Wow was there. Kev Gotti was there.
7 I'm unsure of who else was there.

8 Q. Have you ever driven Gotti to re-up?

9 A. I don't remember.

10 Q. Have you ever driven L-1 to re-up?

11 A. I took L-1 to meet with somebody, Danny Dog, I took him to
12 buy drugs off of.

13 Q. What did you bring L-1 to pick up, what drugs?

14 A. I took him to pick up crack.

15 Q. Around when was that?

16 A. It was 2009, 2010.

17 Q. Do you know how much -- about how much crack was involved
18 with that?

19 A. It was between 10 grams and 14 grams. I can't remember
20 exactly but I remember it was between 10 and 14 grams.

21 Q. In the 2008, '9, and '10 time period have you ever seen Bow
22 Wow, Reckless, and Gucci hang out together?

23 A. I did, yes.

24 Q. And how often and where did you see them together?

25 A. I seen them downtown in the City of Newburgh; Dubois

E8i9chr4

D. Williams - direct

1 Street, Lutheran Street, City Terrace, South Miller. It's
2 different -- I was there everyday so I can't say exactly how
3 many times I seen them together because I was outside everyday.

4 Q. Did you see -- ever see any of them during that time period
5 with L-1?

6 A. I have seen them all with L-1 before.

7 Q. Again, did you ever see them at 38 -- at Government Exhibit
8 270?

9 MR. NAWADAY: Can we put that up, Ms. McInerney?

10 Q. Did you ever see L-1 with any of Reckless, Bow Wow, or
11 Gucci at that address?

12 A. Yes.

13 MR. DRATEL: Objection. Compound.

14 THE COURT: Why don't you break that down,
15 Mr. Nawaday.

16 BY MR. NAWADAY:

17 Q. Who have you seen L-1 with at that address together at the
18 same time?

19 A. Little Tony, Reckless, Gucci, Bow Wow, L-1. I have seen
20 L-1 with just Reckless. I have seen Reckless with Bow Wow. I
21 have seen them all on different occasions.

22 Q. So sometime --

23 A. I have seen Kev Gotti there many a times also.

24 Q. From 2008 to 2010 have you ever seen Bow Wow with a gun?

25 A. I'm sorry.

E8i9chr4

D. Williams - direct

1 Q. Have you ever seen Bow Wow with a gun?

2 A. I have to think about it. I can't remember right this
3 second.

4 Q. During that same time period have you ever seen Reckless
5 with a gun?

6 A. I did see Reckless with a gun, yes.

7 Q. On what occasions?

8 A. I'm sorry?

9 Q. On what occasions?

10 A. One time I went to go meet with him because he was having
11 an issue with my son. I went to go meet with him and he was
12 standing on the street. I pulled up. He had a gun right in
13 front of him. Right in his hand. I rolled the window down and
14 said: You really gonna bring a gun to the car for a female?
15 And he turned around and he handed the gun to the boy that was
16 with him. And then came and got in the car with me.

17 Q. And who was with him at that time?

18 A. He was with Gucci and another guy. I don't know his name.

19 Q. And about how close was he standing to Gucci and this other
20 guy when he came up to your car?

21 A. All three of them were standing side by side on the
22 sidewalk.

23 All of three of them, they were on one side of the
24 street. I parked on the other. When he came towards me with
25 the gun, I said what I said to him. He turned around and

E8i9chr4

D. Williams - direct

1 handed it to them, and then came back to the car.

2 Q. What happened when he came back to the car?

3 A. When he got in the car, he told me that I had to pay him
4 four hundred dollars to leave my son alone.

5 Q. What happened after that?

6 A. I asked him why he was bothering my son, what was his
7 problem with my son, what was his issue.

8 He said my son was snitching. I tried to explain. It
9 didn't matter. He said he wanted four hundred dollars for him
10 to leave my son alone. I told him I go to the ATM machine and
11 get the money and bring it back to him.

12 Q. What happened after that?

13 A. I had my brother's car. My brother called me, told me to
14 bring his car back. I went home to go get my own car. My son
15 was there. I told him what had just happened, that I was going
16 to take the money to Reckless so Reckless will leave him alone.
17 And he said no, you're not taking the money to him. Don't take
18 him nothing.

19 Q. Did you ever pay him?

20 A. No.

21 MR. NAWADAY: Ms. McInerney if you can please put up
22 Government Exhibit 221.

23 Q. Do you recognize that, Ms. Williams?

24 A. Yes.

25 Q. Who is that?

E8i9chr4

D. Williams - direct

1 A. Jeffrey Henry.

2 Q. How long have you -- have you known Jeffrey Henry?

3 A. Almost 20 years.

4 Q. Is he related to you in any way?

5 A. No.

6 Q. Do you know his family?

7 A. I do.

8 Q. And how often did you see him when he was alive?

9 A. I have seen him pretty often. His wife is my children's
10 Godmother's sister. I have seen him. I have seen -- he be at
11 his mom's house, I would see him. I would -- family functions,
12 holidays, birthdays, I would see him.

13 Q. In 2009 and 2010 do you know how he made money?

14 A. When I spoke to him personally, he told me he was working.
15 That's what I -- that's what he told me.

16 Q. Have you ever seen him sell drugs?

17 A. I have.

18 Q. And what drugs and where?

19 A. I have seen him sell crack before on Chambers Street. And
20 on Lander Street I have seen him sell crack before.

21 Q. Do you know what the dispute between Reckless and your son
22 Smoke was about?

23 A. In the beginning I didn't know what it was over. It had
24 went on for so long. I didn't know why he was doing it to him.
25 I didn't know why he was bothering him.

E8i9chr4

D. Williams - direct

1 In the end when I finally went and met with him that
2 day, that's the day that he told me my son was snitching.

3 Q. Ms. Williams, prior to pleading guilty to your cooperation
4 agreement have you told the government about all your crimes?

5 A. This cooperation agreement you're asking me?

6 Q. Yes.

7 A. Yes.

8 Q. And this morning or this afternoon you told us details
9 about some of those crimes you've committed and pleaded guilty
10 to, right?

11 A. Yes.

12 Q. But we haven't gone through all the details of those
13 crimes, have we?

14 A. (No response).

15 Q. Before the jury?

16 A. No.

17 Q. Step back.

18 Besides this time that you saw Reckless with a gun,
19 did you see him with a gun on any other occasion?

20 A. One other occasion he was on South Miller Street in the
21 City of Newburgh.

22 Q. What were the circumstances of that?

23 A. I'm sorry.

24 MR. GREENFIELD: Time?

25 Q. The approximate year was that -- what was the approximate

E8i9chr4

D. Williams - direct

1 year that was and what did you actually see?

2 A. 2009, two thousand -- I am almost positive it was 2010. He
3 was having an argument with his uncle. He came out of the
4 store with the gun in his front pocket. He took the gun out --
5 the girl, Jamie, that I was with, I put her in the car. I got
6 in the car. And we pulled off.

7 Q. Where was this?

8 A. The corner of South Miller and Broadway in the City of
9 Newburgh.

10 Q. Ma'am, we haven't gone through all the details of your
11 crimes, right?

12 A. No.

13 Q. Just some of them?

14 A. Yeah.

15 Q. And are you willing to talk about the details of all those
16 crimes if defense counsel asks about them?

17 A. I am.

18 MR. NAWADAY: No further questions.

19 THE COURT: Very well. Cross-examination.

20 Mr. Strazza.

21 CROSS-EXAMINATION

22 BY MR. STRAZZA:

23 Q. Ms. Williams, did you say that you set your sister up to be
24 robbed because you wanted to? Is that what you said?

25 A. I did say that.

E8i9chr4

D. Williams - cross

1 Q. Your sister had been diagnosed already with cancer at the
2 time, right?

3 A. Yes, she had. Yes.

4 Q. And so you knew she had cancer, right?

5 A. Yes.

6 Q. And you had your friends go into her house with guns to rob
7 her?

8 A. The robbery -- I'm sorry?

9 Q. Is that what you did?

10 A. The robbery wasn't for my sister. The robbery was for her
11 husband. My intentions weren't for them to go in there and rob
12 my sister and put a gun to her or to my niece. It was for her
13 husband. But I did set the robbery up. Yes, I did.

14 Q. Your ten-year-old niece, right?

15 A. At the time she was ten, yes.

16 Q. And you knew that they were going to go in there with guns,
17 right?

18 A. I did know.

19 Q. In fact, you waited for them down the block, right?

20 A. I did.

21 Q. Were you -- did you feel bad while you were waiting in the
22 car?

23 A. At the time, no.

24 Q. Did you feel bad when your sister later passed away from
25 the cancer that you had her robbed?

E8i9chr4

D. Williams - cross

1 A. Yes.

2 Q. Do you feel bad now?

3 A. I do.

4 Q. Did you do it because you needed the money?

5 A. Absolutely not.

6 Q. Did you do it because you were addicted to drugs and you
7 needed drugs?

8 A. No.

9 Q. You just did it because you wanted to?

10 A. Yep.

11 Q. You mentioned that your son is Gerard or Gerald Perkins?

12 A. Gerard.

13 Q. Gerard Perkins?

14 A. Mm-hmm.

15 Q. Junior, right?

16 A. Yes.

17 Q. How old is he now?

18 A. Twenty-one.

19 Q. And he used to sell marijuana, right?

20 A. Yes, he did.

21 Q. And you helped him sell marijuana, right?

22 A. I did.

23 Q. You gave him money to buy marijuana? Right?

24 A. I did.

25 Q. You took him to re-up, right?

E8i9chr4

D. Williams - cross

1 A. I did.

2 Q. You drove him places so that he could make sales, right?

3 A. I did.

4 Q. You taught him how to sell drugs; isn't that right?

5 A. I did.

6 Q. You've been selling drugs out of your house since he was a
7 little boy, right?

8 A. Not consistently but it started when he was younger, yes,
9 and then it picked up again as he was older.

10 Q. And he's been present in the house during those sales,
11 right?

12 A. He was.

13 Q. Were you worried that something might happen to him?

14 A. I didn't even think about it.

15 Q. You didn't care, right?

16 A. I didn't think about it.

17 Q. Did you think that maybe somebody could come in with guns
18 and try and rob you and your kid?

19 A. It could have happened.

20 Q. So you weren't surprised that he started selling drugs when
21 he grew up because that's all he knew, right?

22 A. Correct.

23 Q. And you sold drugs with his father for a substantial period
24 of time, right?

25 A. How much time are you talking about?

E8i9chr4

D. Williams - cross

1 Q. You tell me.

2 A. A year or two?

3 Q. I'm asking you. How long did you sell drugs with his
4 father?

5 A. Anywhere from a year to two years at the most.

6 Q. And over the course of those year to two years you sold a
7 lot of drugs, right?

8 A. I don't know how much drugs I sold but I sold drugs.

9 Q. Everyday, right, during that time period?

10 A. Not everyday, no.

11 Q. Every other day?

12 A. It depended if he was there to serve the customers, then I
13 didn't need to serve the customers. If he wasn't there, then I
14 would serve the customer. I didn't sell drugs everyday.

15 Q. It was like a family business?

16 A. No. Not at all.

17 Q. And then you started selling drugs with Marcus Williams,
18 right?

19 A. I did.

20 Q. And same thing. Out of the house, right?

21 A. Yes.

22 Q. And if he wasn't there to make the sales you would make the
23 sales for him, right?

24 A. Yes, I did.

25 Q. And you sold a lot of drugs with him too, right?

E8i9chr4

D. Williams - cross

1 A. I sold a lot of drugs with him. I did. Not to. I sold a
2 lot of drugs with him.

3 Q. Okay. You sold drugs with him for approximately four
4 years, right?

5 A. (No response).

6 Q. From 1993 to 1997?

7 A. No. I was arrested in -- I wasn't even with him in 1993.

8 Q. When were you with him?

9 A. 1994.

10 Q. How many years did you sell drugs with him?

11 A. Two or three.

12 Q. And you sold drugs everyday during that time period, right?

13 A. No, I did not.

14 Q. What happened -- why did you stop selling drugs with
15 Mr. Williams?

16 A. We were arrested with a federal charge.

17 Q. You guys got caught, right?

18 A. Yes.

19 Q. And he went to jail for five years, right?

20 A. He did.

21 Q. And you got probation?

22 A. I did.

23 Q. And then when you finished with that charge you started --
24 you moved on to prescription pills, right?

25 A. Many years later, yeah.

E8i9chr4

D. Williams - cross

1 Q. You were selling Xanax?

2 A. I've sold Xanax before.

3 Q. Oxycontin?

4 A. I've sold Oxycontin before.

5 Q. Percocets?

6 A. Yes.

7 Q. Vicodins?

8 A. Yes.

9 Q. You were selling your sister's cancer medicine, right?

10 A. At times, yes.

11 Q. You stole prescription pads from the doctor's office and
12 wrote fake prescriptions to get some of your pills?

13 A. Yes.

14 Q. Did you ever get caught for any of that stuff?

15 A. I pled guilty to it now.

16 Q. This case?

17 A. Yes.

18 Q. Let's talk about that for a second. We'll get to that
19 actually.

20 You also sold drugs with your brothers, right?

21 A. I did, yes.

22 Q. You sold with your brother Jason, right?

23 A. Yes.

24 Q. Your brother John?

25 A. Yes.

E8i9chr4

D. Williams - cross

1 Q. You sold prescription pills with them?

2 A. Yes.

3 Q. You sold cocaine with them?

4 (Pause)

5 A. Maybe Jason. I'm not a hundred percent sure. Maybe Jason.
6 I'm not positive.

7 Q. You might have sold cocaine with Jason but you're not sure?

8 A. I might have.

9 Q. And both of your brothers wound up going to prison, right?

10 A. Yes, they did.

11 Q. But you didn't at the time, right?

12 A. I went to prison for what? For selling cocaine?

13 Q. With them. Selling drugs with them. You didn't get caught
14 for selling drugs with them, right?

15 A. They didn't get caught for selling drugs either. They
16 didn't go to prison for selling drugs.

17 Q. What did they go to prison for?

18 A. My one brother was -- went -- Jason went to prison for
19 robbery. Jason went to prison. Now --

20 Q. Did you ever commit any robberies with Jason?

21 A. No.

22 Q. Only Bloods, right?

23 A. Only Bloods.

24 Q. And how about John? What did he go to prison for?

25 A. He was caught with prescription pills and cocaine. His

E8i9chr4

D. Williams - cross

1 house was raided. He was caught with drugs. He wasn't selling
2 drugs.

3 Q. He was caught with the stuff you were selling with him,
4 right?

5 A. He was caught with pills that I sold to him?

6 Q. No. He was caught with the pills and the cocaine that you
7 sometimes helped him sell, right?

8 A. At the time I may have, yes.

9 Q. And he went to prison and you didn't, right?

10 A. Possession is nine-tenths of the law. I wasn't there. He
11 possessed it. I didn't.

12 Q. Did you plead guilty in this case to things that you didn't
13 actually possess?

14 A. Did I plead guilty in this case to things that I actually
15 didn't possess?

16 Q. Right. You just told me possession is nine-tenths of the
17 law. Did you plead guilty in this case?

18 A. I pled guilty, yes.

19 Q. For things that you didn't actually have -- that you didn't
20 actually possess, right?

21 A. I pled guilty to what I did. That's what I pled guilty to.

22 Q. Let's talk about what you did. You drove Bloods around to
23 commit shootings among other things, right?

24 A. Yes.

25 Q. And you drove them around to pick up guns, right?

E8i9chr4

D. Williams - cross

1 A. Yes.

2 Q. You drove them around to transport guns, right?

3 A. Yes.

4 Q. You drove them around to make drug sales, right?

5 A. Yes.

6 Q. You received mail from them, from prison so that you could
7 get it to other Blood members so that they wouldn't get caught,
8 right?

9 A. Yes.

10 (Continued on next page)

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E8inchr5

Williams - cross

1 Q. You passed messages along between Bloods who were
2 incarcerated, right?

3 A. I did.

4 Q. There was a time where you threatened a witness on one of
5 their cases, right?

6 A. Yes.

7 Q. Let's talk about that. One of the Bloods had robbed a
8 woman in Newburgh, right?

9 A. Yes.

10 Q. Who was that blood?

11 A. Who exactly robbed her?

12 Q. Yes.

13 A. I think it was Twizzy, I can't remember.

14 Q. You don't even know who robbed her?

15 A. I knew at the time, of course. I mean it's years later.

16 I'm almost positive it was Twizzy and somebody else. I think
17 there was more than one person.

18 Q. But because it was so long ago you can't remember exactly,
19 right?

20 A. Right.

21 Q. But your memory is crystal clear all the times you saw
22 Raymond Christian selling drugs, right?

23 A. Absolutely not.

24 Q. You remember him in those hallways, right?

25 A. Of course, I do, of course.

E8inchr5

Williams - cross

1 Q. Let me ask you something, over the past, I don't know, five
2 to ten years, how many drug transactions did you witness?

3 A. Many.

4 Q. Hundreds, right?

5 A. It may have been.

6 Q. Maybe even thousands, right?

7 A. Maybe.

8 Q. You remember those couple that you just talked about with
9 Raymond Christian. Those stand out to you, right?

10 A. They do.

11 Q. They do because you need that 5K letter, right?

12 A. Absolutely not. That's not why. It's because it's the
13 truth.

14 Q. Let's talk about this 5K letter for a second. You began
15 cooperating when?

16 A. Which time are you talking about?

17 Q. Let's say after you got arrested in 2011.

18 A. I don't know exactly when. I don't know what month exactly
19 I started talking to them.

20 Q. You started talking to them in 2011, though, right?

21 A. I don't know. I came in in September 2011. I don't know
22 if I met with them before the end of the year, was it the
23 beginning of the next year, I don't remember exactly the time.

24 Q. Within months of you getting arrested you started
25 cooperating with the government, right?

E8inchr5

Williams - cross

1 A. I am unsure of how long after I was arrested that I started
2 speaking to them.

3 Q. Was it years?

4 A. No.

5 Q. Within months, right?

6 A. It may have been.

7 Q. You have been cooperating with them ever since, right?

8 A. I have.

9 Q. You've testified more than once in trials for the
10 government, right?

11 A. Yes.

12 Q. And you still haven't gotten that 5K letter yet, right?

13 A. No.

14 Q. In fact, who determines whether you get that 5K letter?

15 A. The government.

16 Q. What do you have to do in order to get it?

17 A. Not commit any more crimes, tell the truth.

18 Q. You have to help them, right?

19 A. If that's what you call telling the truth, then --

20 Q. You have to testify at this trial, right?

21 A. Of course, yes.

22 Q. If you didn't have any information about Raymond Christian
23 and the other two individuals seated at that table, you
24 wouldn't be able to testify, right?

25 A. I'm sorry?

E8inchr5

Williams - cross

1 Q. If you didn't have any information to provide, the
2 government wouldn't need your help, right?

3 A. Right.

4 Q. And you know that, right?

5 A. Yes.

6 Q. You loved your sister Tara, right?

7 A. Yes.

8 Q. But you had her robbed anyway, right?

9 A. The robbery wasn't for my sister.

10 Q. Well, you didn't care that you were going to have her
11 apartment robbed, right?

12 A. No.

13 Q. And you loved Marco, right?

14 A. Yeah.

15 Q. And you still provided information to the FBI anyway,
16 right?

17 A. Yes.

18 Q. It is fair to say you don't love Raymond Christian, right?

19 A. No.

20 Q. You don't even like Raymond Christian, right?

21 A. I don't dislike him. I don't --

22 Q. You like him?

23 A. I don't dislike him. I am -- he's not -- we are not on
24 a -- we are not friends. He's just another person. That's it.

25 Q. Are you saying that you don't dislike Raymond Christian?

E8inchr5

Williams - cross

1 A. I have no ill feelings towards Raymond Christian, none.

2 Q. Didn't you just tell us that he was beating up your son?

3 Didn't you say that?

4 A. I just said that on the stand? That he was beating up my
5 son?

6 Q. Yeah.

7 A. I did?

8 Q. Didn't you say he was picking on your son?

9 A. I never said he was beating up on my son. I said he was
10 picking on my son is what I said. I did.

11 Q. OK. You like people who pick on your son?

12 A. Not liking him has nothing to do with what happened between
13 him and my son. It has nothing -- whatever happened between
14 him and my son happened. I have no ill feelings towards him.

15 None.

16 Q. You like him?

17 A. I don't dislike him. I don't like him and I don't dislike
18 him.

19 Q. Let's talk about the first time you started cooperating.

20 That was in 2009, right?

21 A. Yes.

22 Q. During that time period you started cooperating because you
23 got caught trying to shoot at the Latin Kings, right?

24 A. I was with two males who were shooting at the Latin Kings.

25 Q. You pled guilty to attempted murder on the Latin kings,

E8inchr5

Williams - cross

1 right?

2 A. Yes.

3 Q. So you started cooperating after you got caught trying to
4 shoot at the Latin Kings, right?

5 A. Yes.

6 Q. You made this agreement with the government and you started
7 talking to the FBI, right?

8 A. Yes.

9 Q. And they put you up in a hotel, isn't that right?

10 A. On an occasion, yes.

11 Q. They put you up in the Marriott, right?

12 A. On one occasion, yes.

13 Q. That one occasion was for about a month, wasn't it?

14 A. A little less than a month.

15 Q. At that point in time you were continuing to provide the
16 FBI with information on a daily basis, right?

17 A. I don't know if it was on a daily basis but --

18 Q. You were keeping in touch with Detective Bunt, right?

19 A. Yes.

20 Q. You were also still seeing Marco Boykin, right?

21 A. I was.

22 Q. He was visiting you at that hotel, right?

23 A. Yes.

24 Q. You were sleeping with him at that hotel, right?

25 A. Yes.

E8inchr5

Williams - cross

1 Q. And then were you going back and telling the FBI the things
2 that he was doing on the street, right?

3 A. I may have.

4 Q. You may have or you did?

5 A. I'm unsure what I told them in that time frame.

6 Q. You don't remember, right, because it was so long ago,
7 right.

8 A. It may have concerned him. It may not have concerned him.

9 If it was something that they asked me and I knew, I told them.

10 Q. Did you tell them about the murder you thought he might
11 have been involved in?

12 A. I did eventually, yes.

13 Q. So you were telling the FBI about this murder that he was
14 involved in, and then you were taking his clothes that you
15 thought he might have been wearing and burning them so that he
16 couldn't get in trouble?

17 A. No. That's not how it happened.

18 Q. Did you burn his clothes?

19 A. No, I did not.

20 Q. Did you destroy his clothes?

21 A. I destroyed his clothes --

22 Q. Excuse me.

23 A. -- after the murder, and I never discussed the murder with
24 the FBI until I said what I did with the clothes. I was
25 questioned about it, did I know something, no, I didn't know

E8inchr5

Williams - cross

1 anything. When I told about the clothes, that was when the
2 murder was discussed in a meeting.

3 Q. About a week after you destroyed the clothes, right?

4 A. Yes.

5 Q. So that wasn't a long time, was it?

6 A. It wasn't the same time.

7 MR. STRAZZA: Judge, I have no further questions.

8 THE COURT: Any further cross?

9 Mr. Dratel.

10 MR. DRATEL: Thank you, your Honor.

11 CROSS EXAMINATION

12 BY MR. DRATEL:

13 Q. Good afternoon, Ms. Williams.

14 A. Good afternoon.

15 Q. You want to see your kids again outside of jail before you
16 die, right?

17 A. I'm sorry?

18 Q. You want to see your kids again outside of jail before you
19 die, right?

20 A. Yes.

21 Q. With an 80-year mandatory minimum sentence staring you in
22 the face, the way is a 5K letter, right?

23 A. Yes.

24 Q. You said you knew Gucci, right?

25 A. Yes.

E8inchr5

Williams - cross

1 Q. When you were being interviewed by the government -- do you
2 recall an interview on October 8, 2013 between you and several
3 representatives of the government?

4 A. I am sure I was there.

5 Q. Is that a yes? I mean I can refresh your recollection if
6 you have a problem.

7 A. Can I see it.

8 Q. Yes. I show you what's marked as 3513-58. I just ask you
9 if you recall an interview on October 8, 2013.

10 A. Yes.

11 Q. Thank you. You were shown photographs at that meeting,
12 correct? Do you recall? Were you shown photographs from time
13 to time by the government and asked about people? In other
14 words, do you know this person, do you know that person, what
15 do you know about them, right?

16 A. On a few occasions.

17 Q. On that occasion weren't you shown a photo of Mr. Thomas
18 and you said, don't know his name?

19 A. I don't remember if I was shown a picture that day and said
20 I don't know his name. You are talking about the October 2013
21 meeting?

22 Q. Yes.

23 A. I can't remember exactly if it was that day that I seen a
24 picture and said I didn't know his name.

25 Q. You were shown that photograph, right?

E8inchr5

Williams - cross

1 A. In October of 2013?

2 Q. Yes.

3 A. I am unsure. I very well may have been. I don't remember.

4 Q. Do you recall whether you said, Don't know his name?

5 A. I don't remember the time that you are speaking about.

6 Q. You identified other people by their nicknames, right? You
7 weren't hesitant to do that even when you didn't know their
8 real names, correct?

9 A. If I knew who they were, I said I knew who they were and
10 how I knew them.

11 Q. But you would say a nickname? If you didn't know someone's
12 name, but if you knew their nickname, you would say who it was
13 in the photograph, right, you would say a nickname, not
14 necessarily a real name?

15 A. If I knew their nickname, I said their nickname, if I knew
16 their real name, I said their real name and most likely their
17 nickname also.

18 Q. You said you had been cooperating with the Newburgh police,
19 correct, for a period of time before your arrest in September
20 of 2011?

21 A. In January 2009, yes.

22 Q. From January 2009 through essentially May of 2011?

23 A. No. Absolutely not.

24 Q. Well, I am not talking about your January 2009 arrest, I am
25 talking about your September 2011 arrest. You said you were

E8inchr5

Williams - cross

1 arrested, right?

2 A. What are you asking me?

3 Q. I'm asking you what was the period of time in which you
4 were cooperating with the Newburgh police before your most
5 recent arrest?

6 A. It started in January 2009, and I'm almost positive --

7 Q. I will try to help you out. Wasn't it until you refused to
8 disclose anything about the murder in which you destroyed the
9 clothes in May of 2011?

10 A. They didn't find out about the clothes in May of 2011.

11 Q. No, but that is when they asked you about it, and then they
12 said we are not going to talk to you anymore?

13 A. No.

14 Q. Didn't you testify to that?

15 A. That's not how it happened.

16 Q. Didn't you testify today that you were confronted by
17 someone from Newburgh who said we want to know about that, and
18 you said I don't know anything and then they said we are not
19 talking to you anymore and then a few months later you were
20 arrested. Did you not testify to that?

21 A. What I said was, I was arrested in January of 2009, I
22 started speaking with them. When the murder happened, it was
23 about a week after the murder that I told them --

24 Q. The murder was when?

25 A. I can't remember if it was 2009 or 2010 to be exact. I

E8inchr5

Williams - cross

1 can't remember honestly. A week after the murder happened, I
2 told --

3 Q. The murder is not important enough for you to remember
4 when --

5 MR. NAWADAY: Objection.

6 Q. Your boyfriend is involved in the murder.

7 THE COURT: Mr. Dratel, you have to let her finish the
8 answer.

9 MR. DRATEL: Thank you, your Honor. I'm sorry.

10 THE WITNESS: I can go?

11 THE COURT: Yes.

12 A. A week after the murder I told them that I got rid of the
13 clothes that I assumed Marco Boykin used for the murder. After
14 that, they didn't speak to me anymore. I didn't hear from them
15 until May of 2011 when I was given a phone call and I said what
16 I said. He said what he said and it was over. I came to jail
17 in September.

18 Q. You knew when you destroyed those clothes that it could
19 very well damage your relationship with the police, right? You
20 knew you were making a decision there?

21 A. Of course, yes.

22 Q. Because you could have called the police and said, Hey, I
23 have information about a murder, right? You could have?

24 A. I sent them pictures of the clothes. They have pictures.

25 Q. I'm asking you a question about when you destroyed them?

E8inchr5

Williams - cross

1 A. Right.

2 Q. When you had those clothes, you had already been providing
3 information on a continual basis to the Newburgh police,
4 correct?

5 A. Yes.

6 Q. For a considerable period of time, correct?

7 A. Yes.

8 Q. At least a year. The murder you said may have been 2011.
9 It could have been two years, right?

10 A. No, it wasn't in 2011.

11 Q. But for at least a year?

12 A. It wasn't even two --

13 Q. You have been providing information for a considerable
14 period of time, correct?

15 A. It depends on what you consider a considerable amount of
16 time.

17 Q. Wasn't it at least a year?

18 A. I'm not sure of exactly how long.

19 Q. Was that roughly what it was. Was it less than a year?
20 Can you give me an estimation?

21 A. I can't.

22 Q. You are providing information to the government, this
23 murder occurs. You could have called up and said, I have
24 information about a murder, I have been helping you out, here's
25 some more help, correct? You could have done that, right?

E8inchr5

Williams - cross

1 A. I could have, yes.

2 Q. You could have preserved the clothing so that the police
3 could examine it, right?

4 A. I could have, yes.

5 Q. Instead you made a calculated and deliberate decision to
6 destroy that evidence, right?

7 A. I did.

8 Q. Despite the fact that you knew that it could have negative
9 consequences for your future and your relationship with the
10 police, right?

11 A. Yes.

12 Q. And that was because your boyfriend was more important to
13 you than that, right? You were willing to take that risk for
14 your boyfriend, right?

15 A. Absolutely not. Because he told me not to do it and I
16 still did it. It had nothing to do with how important he was.

17 Q. It was an accident?

18 A. No. I made the decision on my own. He told me not to do
19 it. I did it on my own.

20 Q. It was more important for you to do that than to tell the
21 police, right? Even though your boyfriend didn't want you to
22 do it, it was more important for you to destroy that than have
23 him to go to jail and have you help the police, right?

24 A. At the time that is a decision that I made.

25 Q. Yeah. Just like now it's more important for you to see

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Williams - cross

1 your kids, right?

2 A. It's more important than what for me to be seeing my kids?

3 Q. Than to spend the rest of your life in jail?

4 A. Of course.

5 MR. DRATEL: Nothing further, your Honor.

6 THE COURT: Ladies and gentlemen, it's ten minutes
7 after 3 now. Let's take our break. 15 minutes. Please be in
8 the jury room no later than 3:25. OK. Don't discuss the case.

9 (Continued on next page)

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E8inchr5

Williams - cross

1 (Jury not present)

2 THE COURT: Ms. Williams, you may step down.

3 Unless there is anything --

4 MR. BAUER: Judge, just briefly, with regards to the
5 rest of our witnesses. We don't have any other witnesses
6 prepared right now for today. This has gone a lot faster today
7 than we had expected. I think we have at least another half an
8 hour of cross and then redirect. But I think Ms. Williams is
9 going to be done before 5. It would be our request that we end
10 a little early today and then we have three witnesses for
11 tomorrow. They will all be here bright and early, and we think
12 we can be done if not before lunch soon after lunch at which
13 time we are prepared to rest. So really what it means is I'm
14 asking that we end a little early today.

15 THE COURT: OK.

16 Who are the witnesses for tomorrow?

17 MR. BAUER: It is Akinto Boone.

18 THE COURT: Is he in?

19 MR. BAUER: He is in custody, but he's in custody in
20 Orange County, so the agents are going to be picking him up at
21 like 6 and bringing him down here. Next up is Ramone
22 McDermott. He's in custody in GO.

23 And third would be Barbara Morreale, and the agents
24 are going to be driving her as well. She lives up north.

25 THE COURT: OK.

E8inchr5

Williams - cross

1 MR. BAUER: So, based on how quickly everything has
2 gone today, I think we will definitely be done before around
3 lunch, either a little bit before or a little bit after, and
4 hopefully defense counsel can do their stipulations then, so I
5 guess as we are looking at it maybe Wednesday morning we can
6 start with closing.

7 THE COURT: Very well.

8 Anything on this side?

9 MR. DRATEL: Your Honor, can we agree also, I think if
10 we can have the rest of this time today will probably
11 facilitate a more efficient preparation of the stipulations
12 that we have been working on giving them. We will have to
13 review today's testimony and add a few. With that, we can keep
14 with it and not have the jury waiting around tomorrow.

15 THE COURT: Very well.

16 MR. BUCHWALD: Just with respect to defense witnesses,
17 if they are needed, we had been telling people Wednesday at the
18 earliest more like Thursday. We will tell them now Wednesday
19 with the Court's permission, hopefully we are not going to need
20 these people. Does that sound right?

21 THE COURT: Are they police officers and government
22 agents?

23 MR. BUCHWALD: A couple of them are.

24 THE COURT: Then they should be told to be prepared to
25 be here tomorrow.

E8inchr5

Williams - cross

1 MR. BAUER: Yes.

2 THE COURT: OK.

3 MR. BUCHWALD: All right. We'll have to reach them
4 tonight then.

5 THE COURT: Yes. I think it's fine to finish early
6 today, because we got most of the day in and obviously there
7 are no other witnesses. If you are going to call live
8 witnesses and the government represents that they will be done
9 as early as tomorrow at noon, I would rather that we absolutely
10 go forward and have those witnesses here. OK.

11 MR. NAWADAY: Thank you, your Honor.

12 THE COURT: Obviously as soon as we're done tomorrow
13 we will have the charging conference.

14 (Recess)

15 THE COURT: Can we get Ms. Williams.

16 I will let the jury know a little bit about what your
17 conversation was.

18 (Jury present)

19 THE COURT: Everyone please be seated.

20 THE COURT: Any other cross-examination?

21 MR. GOLTZER: No. Thank you.

22 THE COURT: Redirect.

23 MR. NAWADAY: Yes, your Honor.

24 REDIRECT EXAMINATION

25 BY MR. NAWADAY:

E8inchr5

D. Williams - redirect

1 Q. Ms. Williams, do you remember questions about whether you
2 remembered the name of Gucci when shown some photos previously?

3 A. Yes.

4 Q. Do you remember those questions?

5 A. Yes.

6 Q. Any doubt in your mind sitting here today where Gucci is
7 right now?

8 A. Ask me again? I'm sorry.

9 Q. Any doubt in your mind that Gucci you know is sitting in
10 this courtroom right now?

11 A. No, he is.

12 Q. That is the same Gucci who was the brother of Princess?

13 A. Yes.

14 Q. About how long have you known Gucci?

15 A. 2009, maybe. Maybe as early as 2008. I'm unsure.

16 Q. You were asked questions about your cooperation agreement,
17 right?

18 A. Yes.

19 Q. And the fact that you would have to testify under your
20 cooperation agreement?

21 A. Yes.

22 Q. And during your meetings with the government, did you only
23 talk about these defendants?

24 A. No.

25 Q. About how many other people did you talk about?

E8inchr5

D. Williams - redirect

1 MR. DRATEL: Beyond the scope, your Honor.

2 THE COURT: Overruled.

3 A. Many. 50, 60, 70, many.

4 Q. These were other people about whom you knew you committed
5 crimes?

6 A. It was about -- ask me again, please.

7 Q. These other people you told the government about, these
8 were people who committed crimes?

9 A. Yes.

10 Q. Under your agreement would you have to testify against
11 those people?

12 A. I would.

13 Q. What is your understanding what happens if you lie and the
14 defendants here are found guilty. Do you get your 5K letter?

15 A. If I lie and they're found guilty?

16 Q. Yes.

17 A. Do I get my letter? No.

18 Q. What happens if you tell the truth and the defendants are
19 found not guilty? Do you get your 5K letter?

20 A. Yes.

21 Q. As far as you understand, will the outcome of this case
22 have any effect on your sentence?

23 A. No.

24 MR. NAWADAY: No further questions.

25 THE COURT: Mr. Strazza?

E8inchr5

D. Williams - redirect

1 RECROSS EXAMINATION

2 BY MR. STRAZZA:

3 Q. Who determines if you lie today? Who makes that
4 determination? The government, right?

5 A. Yes.

6 MR. STRAZZA: No further questions.

7 THE COURT: Nothing more?

8 MR. NAWADAY: No further questions.

9 THE COURT: Ms. Williams you may step down.

10 THE WITNESS: Thank you.

11 (Witness excused)

12 THE COURT: Now, ladies and gentlemen, please excuse
13 me while I speak with the lawyers at sidebar.

14 (Continued on next page)

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E8inchr5

D. Williams - recross

1 (At sidebar)

2 THE COURT: Mr. Buchwald?

3 MR. BUCHWALD: Yes. What I wanted to raise, we have
4 the three witnesses tomorrow, and I think that we are likely to
5 finish by lunchtime if I am hearing the estimate correct for
6 McDermott's direct, maybe a little, before maybe a little
7 after.

8 MR. GOLTZER: It won't be that long. Are you calling
9 Evans?

10 MR. BAUER: No.

11 MR. BUCHWALD: They are not calling David Evans. What
12 I was going to propose for everybody's consideration --

13 MR. BAUER: Do we need to do this with the jury
14 sitting here.

15 MR. BUCHWALD: Yes, because depending on the
16 resolution we may adjourn at that point with the jury. We can
17 continue then, judging from our conversations I think we're
18 likely to work out all the stipulations.

19 MR. GOLTZER: Yes.

20 MR. BUCHWALD: If we don't, then we will have the
21 policemen and we can proceed with the jury.

22 MR. GOLTZER: I expect we will.

23 MR. BUCHWALD: I think, judging from the
24 conversations, we're likely to do that. So that we can proceed
25 with our charging conference and things like that in the

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D. Williams - recross

1 afternoon.

2 MR. BUCHWALD: Then we are able to start the
3 summations at the beginning of the morning, the following
4 morning.

5 MR. GOLTZER: We would need to read the stips in the
6 morning first Wednesday morning.

7 MR. BUCHWALD: That's right. I guess we would read
8 the stips Wednesday morning.

9 MR. GOLTZER: And then sum up.

10 MR. BUCHWALD: Maybe if we have succeeded in working
11 out the stips tonight, we could do that.

12 MR. GOLTZER: If we do it tonight, if we don't work it
13 out tonight, we will have to do it Wednesday morning and then
14 go right into summations.

15 MR. BUCHWALD: And have the benefit of all of the
16 summations hopefully in one day, as opposed to breaking them
17 up. We would all have the benefit of the charging conference
18 before the summation.

19 THE COURT: I guess the only part of this plan that I
20 am not liking is why can't you just have the stipulations
21 either the stipulations or the witnesses tomorrow afternoon.
22 Are you not going to have them prepared in time?

23 MS. STAFFORD: No.

24 MR. GOLTZER: Hopefully we will. We are going to do
25 that tonight.

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D. Williams - recross

1 MR. BAUER: We have made our representation that we
2 will be available all night.

3 MR. BUCHWALD: We discussed a number of them. There
4 are obviously some that have to be drafted based on this
5 morning, but I don't think they are going to be controversial.

6 MR. BAUER: Get them done tonight so we can do them
7 tomorrow.

8 MR. GOLTZER: It is in the 3500. There is no
9 surprises.

10 THE COURT: Let's get as much done tomorrow as we can.
11 I'm happy to let the jury go early tomorrow with the
12 representations that we'll get in the summations on Wednesday.

13 MR. BAUER: Right.

14 How about we do this. Perhaps a modified version of
15 what you, your Honor, and Mr. Buchwald were saying. Let's plan
16 on having all the stipulations done tomorrow and read tomorrow.
17 If there's one outstanding, you don't have to rest at end of
18 the day Tuesday. If you have to read the last one Wednesday
19 morning, we can do that. Let's try to get all the stipulations
20 in on Tuesday.

21 MR. BUCHWALD: Let me also represent unless things
22 drastically change with McDermott, and I don't know if they
23 will or they won't, but there are going to be serious Rule 29
24 arguments with respect to at least some of the counts. I think
25 we all know what is coming in the way of those arguments.

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D. Williams - recross

1 THE COURT: We can do that in the afternoon.

2 MR. BUCHWALD: That's right.

3 The one other part of it is, is assuming that we are
4 starting summations Wednesday morning, either before or after a
5 couple of stips or one government policeman kind of witness,
6 obviously we have a preference for all of the summations being
7 concluded. It sounds to me from estimates I have heard on that
8 side and I think from you folks, too, that they would be
9 concluded, but it might be prudent to suggest to the jury that
10 it's possible that they would be asked to stay until 5:30 on
11 Wednesday just so that we can -- hopefully we will avoid that
12 but maybe to alert them to that possibility.

13 THE COURT: Have you guys talked about a schedule for
14 the summations.

15 MR. DRATEL: Yes.

16 MR. GREENFIELD: Yes.

17 MR. BUCHWALD: We have added it up. It seems
18 realistic that they would all be done in one day, but this
19 gives a little flexibility in case they are not quite done.

20 MR. DRATEL: If we can get the government and one
21 defense summation before lunch the other two defenses' after
22 lunch and then rebuttal. I think it's a better chance than not
23 that we will get in under the wire.

24 MR. BUCHWALD: Just to give us the little extra
25 flexibility.

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D. Williams - recross

1 MR. GREENFIELD: If they run long.

2 THE COURT: I will sit you down, Mr. Greenfield.

3 (In open court)

4 THE COURT: Ladies and gentlemen, a couple of
5 announcements.

6 First of all, we are done for today.

7 Secondly, I know that some of you have been inquiring
8 of Ms. Rivera. It does appear as though we will remain on
9 schedule and get all of the evidence in. In fact, the parties
10 anticipate that all of the evidence will be in by sometime
11 tomorrow. At whatever time that is, we will then break again
12 because I need to have the charge conference with the parties.
13 That's where we hammer out the final jury instructions.

14 So you should know there is a very good chance that we
15 will be done early tomorrow as well. Then the plan is to have
16 the summations, all of the parties' closing arguments to you on
17 Wednesday.

18 In order to get all of that done, it may be the case,
19 although I will work with the lawyers in this regard, that we
20 may go a little bit past 5 o'clock on Wednesday, but we will
21 see where we are.

22 It is not my intention to tax your attentiveness any
23 more than necessary so we will see where we are. That is the
24 schedule for now. We will meet again tomorrow morning again at
25 9:30.

E8inchr5

D. Williams - recross

1 The parties expect all of the evidence to be before
2 you by the break, and then Wednesday we will hear the final
3 arguments, Thursday morning will be the charge, and you will
4 begin deliberations as soon as I'm done with the jury charge.

5 So that is the plan. We'll see you tomorrow morning.
6 Until then do not discuss the case, even on social media.

7 (Jury not present)

8 MR. BUCHWALD: Your Honor?

9 THE COURT: Sir.

10 MR. BUCHWALD: One other request. If we could stay
11 here with our clients for about five minutes before they are
12 taken away so that we can discuss certain things with them,
13 which I think will speed the process up the next couple of
14 days.

15 THE COURT: OK. Any objection?

16 THE MARSHAL: That's fine.

17 THE COURT: Very well.

18 Do the parties want to work out a schedule for closing
19 arguments or will you work it out amongst yourselves?

20 MR. BAUER: We are going to go first.

21 MR. GOLTZER: We are going to go last.

22 THE COURT: I can hammer something out.

23 MR. DRATEL: We will work it out.

24 THE COURT: Very well. If there's nothing more, do be
25 prepared to discuss the jury charge tomorrow as soon as we are

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D. Williams - recross

1 done.

2 OK, folks.

3 (Adjourned to Tuesday, August 19, 2014 at 9:30 a.m.)

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